AUG 1 9 1993

ACTS

OF THE

Second Annual Session

OF THE

Two Hundred and Fourth Legislature

OF THE

STATE OF NEW JERSEY

AND

Thirty-Fourth Under the New Constitution

CHAPTERS 321-528

New Jersey State Library

1991

CHAPTER 321

AN ACT appropriating $1,040,000 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for farmland preservation.

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

1. There is appropriated to the State Agriculture Development Committee from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $1,040,000 for the purpose of providing funding for up to 100% of the cost of acquisition of the fee simple absolute title on farmland in Mercer County, Hopewell Township, block 44, lot 11.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.183.

3. This act shall take effect immediately.

Approved November 21, 1991.

CHAPTER 322

AN ACT concerning all-terrain vehicles and amending P.L.1973, c.307.

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

1. Section 3 of P.L.1973, c.307 (C.39:3C-3) is amended to read as follows:

C.39:3C-3 Registration required; fees.

3. Except as otherwise provided, no snowmobile or all-terrain vehicle shall be operated or permitted to be operated on or across a public highway or on public lands or waters of this State unless registered by the owner thereof as provided by this act. The Director of the Division of Motor Vehicles in the Department of Law and Public Safety is authorized to register and assign a registration number to snowmobiles and all-terrain vehicles, upon application and payment of the appropriate fee in accordance with the following schedule:

a. For each individual resident snowmobile registration, $5.00, and for each individual resident all-terrain vehicle registration, $10.00, annually;

b. For each individual nonresident snowmobile registration, $7.00, and for each individual nonresident all-terrain vehicle registration, $12.00, annually;

c. For replacement of a lost, mutilated or destroyed certificate, $3.00;

d. For a duplicate registration, $1.00 at the time of issuance.

All such registrations shall be issued on or after September 1 in any year and shall be valid through September 30 of the following year, except that the director may suspend or revoke such registration for any violations of this act or of the rules promulgated hereunder.

2. Section 9 of P.L.1973, c.307 (C.39:3C-9) is amended to read as follows:

C.39:3C-9 Production of certificate.

9. a. Every person operating a snowmobile or all-terrain vehicle registered or transferred in accordance with any of the provisions of this act shall, upon demand of any peace officer, law enforcement officer, duly authorized official of the Department of Environmental Protection, or a police officer, produce for inspection the certificate of registration and shall furnish to such officer any information necessary for the identification of such snowmobile or all-terrain vehicle and its owner. The failure to produce the certificate of registration when operating a snowmobile or all-terrain vehicle on public lands and waters or when crossing a public highway shall be presumptive evidence in any court of competent jurisdiction of operating a snowmobile or all-terrain vehicle which is not registered as required by this act.

b. A person less than 18 years of age who operates an all-terrain vehicle which is registered in this State shall produce upon demand a certificate indicating that person's successful completion of an all-terrain vehicle safety education and training course established or certified by the director in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15). The failure to produce the certificate when operating an all-terrain vehicle on public lands or waters, or when crossing a public highway, shall be presumptive evidence in any court of competent jurisdiction of the operation of the all-terrain vehicle in violation of the requirement in subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16).

3. Section 14 of P.L.1973, c.307 (C.39:3C-14) is amended to read as follows:

C.39:3C-14 Environmental regulations.

14. The commissioner, with a view towards minimizing detrimental effects on the environment, shall adopt rules and regulations relating to and including, but not limited to, the following:

a. Use of snowmobiles and all-terrain vehicles insofar as fish, wildlife and plantlife resources are affected;

b. Use of snowmobiles and all-terrain vehicles on public lands and waters under the jurisdiction of the Department of Environmental Protection.

The commissioner may locate, designate and make available by the effective date of this act appropriate areas of public lands upon which all-terrain vehicle safety education and training programs established or certified by the Director of the Division of Motor Vehicles in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15) may be conducted. The commissioner shall report to the Legislature and the Governor within one year after the effective date of this act on the size and location of the public lands located, designated and made available; on the frequency of the use, or the estimated frequency of use, of these public lands for safety education and training programs; and the environmental impact of this use on the lands.

4. Section 15 of P.L.1973, c.307 (C.39:3C-15) is amended to read as follows:

C.39:3C-15 Motor vehicle regulations.

15. The Director of the Division of Motor Vehicles shall adopt rules and regulations relating to and including, but not limited to:

a. Specifications relating to equipment required for safety as provided herein.

b. Establishment of a comprehensive snowmobile and all-terrain vehicle information and safety education and training program.

c. The regulations pertaining to and the granting of permits for the conduct of all prearranged special events as provided in this act, except that in the case of those special events conducted on public lands and waters under the jurisdiction of the Department of Environmental Protection any regulations must be approved jointly by the director and the commissioner.

In accordance with the requirement in paragraph b. of this section, the director shall establish an all-terrain vehicle safety education and training program to be offered by the division, or shall certify other

all-terrain vehicle safety education and training programs to be offered by public or private agencies or organizations, the successful completion of which shall satisfy the training requirements in subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16). A person less than 16 years of age participating in an all-terrain vehicle safety education and training course established or certified by the director shall operate during the training only an all-terrain vehicle with an engine capacity of 90 cubic centimeters or less.

5. Section 16 of P.L.1973, c.307 (C.39:3C-16) is amended to read as follows:

C.39:3C-16 Age requirements.

16. a. A person under the age of 14 years shall not operate or be permitted to operate any snowmobile or all-terrain vehicle on public lands or waters or across a public highway.

b. A person less than 16 years of age shall not operate on public lands or waters or across a public highway of this State an all-terrain vehicle with an engine capacity greater than 90 cubic centimeters.

c. A person less than 18 years of age shall not operate an all-terrain vehicle registered in this State on public lands or waters or across a public highway of this State unless the person has completed an all-terrain vehicle safety education and training course established or certified by the director pursuant to section 15 of P.L.1973, c.307 (C.39:3C-15). At all times during the operation of the all-terrain vehicle, the person shall have in his possession a certificate indicating successful completion of the course.

6. Section 23 of P.L.1973, c.307 (C.39:3C-23) is amended to read as follows:

C.39:3C-23 Limited exemptions.

23. Snowmobiles and all-terrain vehicles operated at special events shall be exempt from the provisions of this chapter concerning registration and lights during the time of such operation, including all prerace practice at the location of the meet. In addition, all-terrain vehicles operated at special events shall be exempt from the provisions of subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16) and subsection b. of section 9 of P.L.1973, c.307 (C.39:3C-9); however, subsection b. of section 16 of P.L.1973, c.307 (C.39:3C-16) shall apply to persons operating all terrain vehicles at special events and prerace practice.

7. Section 26 of P.L.1973, c.307 (C.39:3C-26) is amended to read as follows:

C.39:3C-26 Restrictions on sales.

26. a. No person shall have for sale, sell, or offer for sale in this State any snowmobile or all-terrain vehicle which fails to comply with the provisions of this act or which does not comply with the specifications for such equipment required by the rules and regulations of the director, after the effective date of such rules and regulations.

b. A person shall not knowingly sell or offer to sell an all-terrain vehicle with an engine capacity of greater than 90 cubic centimeters for use by a person less than 16 years of age.

c. Retail dealers and distributors of all-terrain vehicles shall comply with those requirements of the consent decree entered into by all-terrain vehicle distributors and the United States Consumer Product Safety Commission on April 28, 1988 which require the providing of safety information on all-terrain vehicles to either the purchasers or retail dealers of such vehicles, as appropriate.

8. Section 28 of P.L.1973, c.307 (C.39:3C-28) is amended to read as follows:

C.39:3C-28 Penalty.

28. Any person who shall violate any provisions of this act, if no other penalty is specifically provided, or any rule or regulation promulgated pursuant to this act shall be punished by a fine of not less than $100 or more than $200. For a second or subsequent violation of section 26 of P.L.1973, c.307 (C.39:3C-26), a fine of not less than $200 or more than $500 shall be imposed.

9. Section 29 of P.L.1985, c.375 (C.39:3C-30.1) is amended to read as follows:

C.39:3C-30.1 Golf course, farm, exemptions.

29. a. The provisions of this 1985 amendatory and supplementary act and this 1991 amendatory act insofar as they pertain to all-terrain vehicles shall not be applicable to their operation and use on golf courses in this State, except that, subsection b. of section 16 of P.L.1973, c.307 (C.39:3C-16) and subsection b. of section 26 of P.L.1973, c.307 (C.39:3C-26) shall be applicable to the operation and use of all-terrain vehicles on the golf courses of this State.

b. The requirements of subsection b. of section 9 of P.L.1973, c.307 (C.39:3C-9) and subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16) shall not apply to a person less than 18 years

of age when the person operates an all-terrain vehicle on public lands or waters or across a public highway as an incident to or in the actual performance of the operations of a farm adjacent to the public land or water or the public highway upon which the vehicle is being operated. As used in this section, "farm" means land used for commercial raising, growing and producing of any crop, livestock, or fur products on land not less than five acres in area and which is not used in the business of buying farm products for resale.

10. Section 29 of P.L.1973, c.307 (C.39:3C-29) is amended to read as follows:

C.39:3C-29 Funds to General Treasury; allocation for safety programs.

29. The director shall deposit all moneys received by him from the registration of snowmobiles and all-terrain vehicles, the sale of registration information, publications and other services provided by the department and all fees collected by him under this act to the credit of the General Treasury, except that $5 of a registration fee paid by a resident or nonresident of this State shall be allocated to the division to defray the cost of providing all-terrain vehicle safety education and training manuals or all-terrain vehicle safety education and training programs in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15), or both.

11. This act shall take effect 180 days after enactment, except that sections 3, 4, 7, 8 and 10 shall take effect immediately.

Approved November 22, 1991.

CHAPTER 323

AN ACT concerning bicycle safety and supplementing P.L.1975, c.328 (C.39:4-14.4 et seq.).

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

C.39:4-14.4a Helmet use; required display of promotional statement.

1. No person shall sell or offer to sell at retail any bicycle unless there is affixed to that bicycle a statement promoting the use of helmets by bicycle riders. If a bicycle is sold unassembled,

the statement shall be displayed in a prominent manner on the carton or package containing the unassembled bicycle.

C.39:4-14.7a Rules, regulations; warning cards.

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety 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 to effectuate the purposes of this act. In addition to such other matters as the director shall deem appropriate and necessary, those rules and regulations so promulgated shall provide that the affixing of the warning cards "This Bike Is Missing One Part," designed by the New Jersey Coalition for Prevention of Developmental Disabilities and funded by the Office for the Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services, to a bicycle offered for sale at retail shall fulfill the requirements of section 1 of this act and that those warning cards shall be readily available to the retail sellers of bicycles at cost.

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

Approved November 22, 1991.

CHAPTER 324

AN ACT authorizing the expenditure of funds by the New Jersey Wastewater Treatment Trust for the purpose of making loans to local government units to finance a portion of the costs of construction of wastewater treatment system projects, and supplementing P.L.1985, c.334 (C.58:11B-1 et seq.).

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

1. The New Jersey Wastewater Treatment Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), is authorized to expend the aggregate sum of up to $90,000,000, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.1988, c.132, section 1 of P.L.1989, c.190, and section 1 of P.L.1990, c.97 for the purpose of making loans, to the extent sufficient funds are available, to local government

units to finance a portion of the costs of construction of wastewater treatment system projects listed in sections 2, 3 and 4 of this act. The trust is also authorized to increase the aggregate sums by the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act. For the purposes of this act, "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds; and "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, municipal bond insurance premiums, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents and any other costs related to the issuance of trust bonds.

2. a. The New Jersey Wastewater Treatment Trust is authorized to expend funds for the purpose of making supplemental loans to the local government units listed below for the following wastewater treatment system projects:

Project No.	Local Government Unit	Estimated Allowable Project Cost
S340717-03-1	Cedar Grove Township	$1,775,594
S340874-01-1	Phillipsburg, Town of	492,668
	Total	$2,268,262

b. The loans authorized in this section shall be made for the difference between the loan amounts certified by the chairman of the trust in State fiscal years 1989 and 1991 and the allowable loan amounts required by these projects based upon low bid building costs pursuant to subsection a. of section 7 of this act. The loans authorized in this section shall be made to the local government units listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as any such project fails to meet the requirements of section 6 of this act.

c. The loans authorized in this section shall have priority over the wastewater treatment system projects listed in section 4 of this act.

3. The New Jersey Wastewater Treatment Trust is authorized to make loans to the local government units and for the wastewater treatment system projects listed in section 4 of this act up to the individual amounts indicated and in the priority stated, except

as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act.

4. The following wastewater treatment system projects shall be known and may be cited as the "State Fiscal Year 1992 Project Priority List":

Project No.	Local Government Unit	Estimated Allowable Project Cost
S340874-02	Phillipsburg, Town of	$677,100
S340697-03	Bayshore RSA	15,900,650
S340708-07	Camden County MUA	1,327,324
S340921-01	Millville City	5,007,500
S340640-04	Camden County MUA	6,006,471
S340933-01	Hackettstown MUA	6,775,425
S340818-03	Burlington Co.Bd.Ch.Freehldr.	26,765,000
S340931-01	Montville Township MUA	1,842,578
S340919-01	Holmdel Township	2,050,372
S340880-01	Pequannock Lincoln Park and Fairfield SA	3,304,900
S340920-01	Paramus Borough	802,358
	Total	$70,459,678

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), any proceeds from bonds issued by the trust to make loans for priority wastewater treatment system projects listed in sections 2, 3 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority wastewater treatment system projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses.

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

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1985, c.334 and any rules and regulations adopted pursuant thereto;

b. The loan shall be conditioned upon approval of a zero interest loan from the Department of Environmental Protection from

the "Wastewater Treatment Fund" established pursuant to the "Wastewater Treatment Bond Act of 1985," P.L.1985, c.329;

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

d. The loan shall not exceed 50% of the allowable project cost of a wastewater treatment system, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act;

e. The loan shall bear interest at or below the interest rate paid by the trust on the bonds issued to make the loans authorized by this act, adjusted for underwriting discount, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21); and

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

The priority list and loans authorized pursuant to this act shall expire on July 1, 1992, and any local government unit which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Wastewater Treatment Trust is authorized to reduce the individual amount of loan funds made available to local government units pursuant to sections 2, 3 and 4 of this act based upon low bid building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2, 3 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, municipal bond insurance premiums and bond rating agency fees, shall not exceed 0.3% of the principal amount of trust bonds issued to make loans authorized by this act.

8. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1985, c.329 and P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto.

9. a. The trust may assess, charge or otherwise collect any annual administrative fees, charges or surcharges from local government units in connection with any loans made pursuant to this act, which annual fees, charges or surcharges may not exceed 0.3% of the initial principal amount of the loan.

b. The trust shall not reduce the individual loan amount of loan funds made available to local government units pursuant to sections 2, 3 and 4 of this act based upon any services provided by the trust or the Department of Environmental Protection, or for any administrative costs incurred in connection therewith.

10. This act shall take effect immediately.

Approved December 4, 1991.

CHAPTER No. 325

AN ACT appropriating moneys from the Wastewater Treatment Fund for the purpose of making zero interest loans to local government units to finance a portion of the costs of construction of wastewater treatment system projects.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Wastewater Treatment Fund - State Revolving Fund Accounts" (hereinafter referred to as the "State Revolving Fund Accounts") contained within the "Wastewater Treatment Fund" and established pursuant to section 1 of P.L.1988, c.133 an amount not exceeding $85,000,000 in federal funds and any fees and penalties received pursuant to the "Marine Protection, Research, and Sanctuaries Act of 1972," (33 U.S.C. §1401 et seq.), and any amendatory and supplementary acts thereto, as may be deposited in the State Revolving Fund Accounts. Any such amount shall be for the purpose of making zero interest loans, to the extent sufficient funds are available, to local government units to finance a portion of the costs of construction of wastewater treatment system projects listed in sections 2 and 3 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the "Water Quality Act of 1987" (33

U.S.C. §1251 et seq.), the "Marine Protection, Research, and Sanctuaries Act of 1972," and any amendatory and supplementary acts thereto, and State law.

b. The Department of Environmental Protection is authorized to make zero interest loans to the local government units and for the wastewater treatment system projects listed in sections 2 and 3 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 of this act.

c. The department is also authorized to make zero interest loans to the local government units and for the wastewater treatment system projects listed in sections 2 and 3 of this act under the same terms, conditions and requirements as set forth in this section from any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988, c.133, section 1 of P.L.1989, c.189, or section 1 of P.L.1990, c.99, including amounts resulting from the low bid building cost reductions authorized pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988, c.133, section 6 of P.L.1989, c.189, and section 6 of P.L.1990, c.99, and from any repayments of loans deposited in the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, including any State Revolving Fund Accounts contained within the "Wastewater Treatment Fund."

2. a. The department is authorized to expend funds for the purpose of making supplemental zero interest loans to the local government units listed below for the following wastewater treatment system projects:

Project No.	Local Government Unit	Estimated Allowable Project Cost
S340717-03-1	Cedar Grove Township	1,775,594
S340874-01-1	Phillipsburg, Town of	$492,668
	Total	$2,268,262

b. The loans authorized in this section shall be made for the difference between the loan amounts certified by the commissioner in State fiscal years 1989 and 1991 and the allowable loan amounts required by these projects based upon low bid building costs pursuant to section 6 of this act. The loans authorized in this section shall be made to the local government units listed, up to

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

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

3. The following wastewater treatment system projects shall be known and may be cited as the "State Fiscal Year 1992 Project Priority List":

Project No.	Local Government Unit	Estimated Allowable Project Cost
S340874-02	Phillipsburg, Town of	$677,100
S340697-03	Bayshore RSA	15,900,650
S340708-07	Camden County MUA	1,327,324
S340921-01	Millville City	5,007,500
S340640-04	Camden County MUA	6,006,471
S340933-01	Hackettstown MUA	6,775,425
S340818-03	Burlington Co.Bd.Chos.Freehldr.	26,765,000
S340931-01	Montville Township MUA	1,842,578
S340919-01	Holmdel Township	2,050,372
S340880-01	Pequannock Lincoln Park and Fairfield SA	3,304,900
S340920-01	Paramus Borough	802,358
	Total	$70,459,678

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

a. The commissioner has certified that the project is in compliance with the provisions of P.L.1985, c.329 and any rules and regulations adopted pursuant thereto;

b. The loan amount shall not exceed 50% of the allowable project cost of a wastewater treatment system;

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

d. The loan shall be conditioned upon approval of a loan from the New Jersey Wastewater Treatment Trust pursuant to P.L.1991, c.324;

e. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the trust pursuant to P.L.1991, c.324 or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. The priority list and loans authorized pursuant to sections 2 and 3 of this act shall expire on July 1, 1992, and any local government unit which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

6. The Commissioner of Environmental Protection is authorized to reduce the individual amount of loan funds made available to local government units pursuant to sections 2 and 3 of this act based upon low bid building costs or final building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329.

7. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1985, c.329 and any rules and regulations adopted by the commissioner pursuant thereto.

8. The Department of Environmental Protection shall provide general technical assistance to any local government unit requesting assistance regarding wastewater treatment system project development or applications for funds for a project.

9. Prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, repayments of loans made pursuant to this act may be utilized by the New Jersey Wastewater Treatment Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) under terms and conditions established by the commissioner and trust, and approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1991, c.324, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the local government units receiving trust loans. To the extent that any loan repayment sums are used to secure trust bond repayments or administrative fee payments, the trust shall repay such sums to the department for deposit into the "Wastewater Treatment Fund."

10. The Commissioner of Environmental Protection is authorized to enter into a capitalization grant agreement as may be required pursuant to the "Water Quality Act of 1987" (33 U.S.C. §1251 et seq.).

11. a. The Director of the Division of Budget and Accounting in the Department of the Treasury is directed to transfer to the "Wastewater Treatment Fund" the entire sum of money appropriated to the Department of Environmental Protection for "Public Wastewater Facilities" in the "State Aid" section of P.L.1991, c.185. The sum transferred to the "Wastewater Treatment Fund" pursuant to this section is appropriated to the New Jersey Wastewater Treatment Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.). The trust shall deposit all or a portion of this sum as it may deem necessary and appropriate into one or more reserve funds established pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11). These reserve funds shall include reserve funds constituted collectively as a water pollution control revolving fund for the purposes of the federal "Water Quality Act of 1987" and shall be known as the Trust Reserve Fund - State Revolving Fund Accounts; except that the trust shall not establish the Trust Reserve Fund - State Revolving Fund Accounts prior to the execution of a capitalization grant agreement entered into by the Commissioner of Environmental Protection pursuant to section 10 of this act.

b. Any portion of the sum appropriated to the trust pursuant to subsection a. of this section or subsection a. of section 11 of P.L.1989, c.189, plus any net earnings received from the investment or deposit of such moneys by the trust not required by the trust to establish reserve funds as provided in this section, shall be returned to the "Wastewater Treatment Fund" and placed in any account therein as determined by the commissioner to be used by the department for making zero interest loans to local government units to finance a portion of the cost of the wastewater treatment system projects listed in sections 2 and 3 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the commissioner pursuant to section 6 of this act or if a project fails to meet the requirements of section 4 of this act; and except that the commissioner shall certify to the chairman of the trust that such funds are needed for zero interest loans before any transfer is made. In the event that the commissioner fails to make this certification, the unexpended balance not devoted to establishing reserve funds shall remain with the trust but shall not be expended by the trust until such expenditure is authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.).

12. a. The Department of Environmental Protection shall not assess, charge or otherwise collect any annual administrative fees,

charges or surcharges from local government units in connection with any loans made pursuant to this act.

b. The department shall not reduce the individual loan amount of loan funds made available to local government units pursuant to sections 2 and 3 of this act based upon any services provided by the department or the trust, or for any administrative costs incurred in connection therewith.

13. This act shall take effect immediately.

Approved December 4, 1991.

CHAPTER 326

AN ACT cancelling certain appropriations from the "Water Conservation Fund" and the "Clean Waters Fund" and appropriating amounts from these two funds for various State institution sewerage projects.

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

1. The following portions of amounts previously appropriated from the "Water Conservation Fund" created pursuant to the "Water Conservation Bond Act," P.L.1969, c.127 are cancelled:

a. Pursuant to an appropriation made by section 3 of P.L.1975, c.158, $24,937 of the $1,200,000 appropriated for the development of a comprehensive State water supply master planning report;

b. Pursuant to an authorization made by section 3 of P.L.1979, c.45, $201,701 of the $562,000 authorized to be used for upgrading the sewage treatment plant at Ancora State Hospital, which authorized amount was provided from repayments of loans made to local governmental units from the "Water Conservation Fund" and thereafter appropriated pursuant to section 5 of P.L.1975, c.158;

c. Pursuant to amounts received as repayments of loans made to local governmental units from the "Water Conservation Fund" and thereafter appropriated pursuant to section 5 of P.L.1975, c.158 and transferred pursuant to section 4 of P.L.1975, c.158, $182,112 of the $400,000 transferred from repayments of loans to the Department of Environmental Protection for departmental costs incurred in certify-

ing waste water treatment facilities for federal grants, which departmental costs were authorized pursuant to the P.L.1978, c.60;

d. Pursuant to an authorization made by section 2 of P.L.1981, c.386, $1,435,657 of the $2,000,000 authorized to be used for a pre-treatment grant, which authorized amount was provided from repayments of loans made to local governmental units from the "Water Conservation Fund" and thereafter appropriated pursuant to section 5 of P.L.1975, c.158; and

e. Pursuant to a direction made by section 2 of P.L.1983, c.499, $199,235, which represents loan repayments, of the $2,000,000 directed to be used for the construction of new water supply facilities or for the extension of existing water supply facilities to replace contaminated private wells which directed amount was provided from repayments of loans from the "Water Conservation Fund" and thereafter appropriated pursuant to section 5 of P.L.1975, c.158.

2. The following portions of amounts previously appropriated from the "Clean Waters Fund" created pursuant to the "Clean Waters Bond Act of 1976," P.L.1976, c.92 are cancelled:

a. Pursuant to an appropriation made by section 3 of P.L.1977, c.450, $400,000 allocated for the City of Trenton reservoir cover;

b. Pursuant to an authorization made by section 2 of P.L.1981, c.28, $463,667 of the $18,467,230 authorized to be used for certain emergency water supply projects, which authorized amount was allocated from certain portions of grants to local governments cancelled pursuant to section 1 of P.L.1981, c.28;

c. Pursuant to an appropriation made by section 1 of P.L.1981, c.113, $1,520,000 appropriated as a loan to the City of Perth Amboy in Middlesex county to assist the city in the rehabilitation of its potable water supply system;

d. Pursuant to an appropriation made by section 2 of P.L.1981, c.116, $65,323 of the $800,000 appropriated for area water quality planning, which amount was provided from repayment of a water supply loan made to the Township of Jackson in Ocean county pursuant to section 1 of P.L.1979, c.232;

e. Pursuant to an appropriation made by section 1 of P.L.1981, c.234, $31,070, which represents loan repayments, of the $60,000 appropriated for a water supply loan to the Township of Egg Harbor in Atlantic county, which amount included repayments of a water supply loan made to the Township of Jackson in Ocean county pursuant to section 1 of P.L.1979, c.232;

f. Pursuant to an appropriation made by section 1 of P.L.1981, c.543, $350,000 appropriated for a water supply loan to the Township of Logan in Gloucester county; and

g. Pursuant to an authorization made by section 2 of P.L.1985, c.243, $2,825,088 of the $3,708,508 authorized for certain 1985 drought emergency water supply projects, which authorized amount was provided from certain portions of 1981 drought emergency water supply projects cancelled pursuant to section 1 of P.L.1985, c.243.

3. The following sums are appropriated to the Department of Environmental Protection for sewerage infrastructure improvements at certain State facilities identified in section 4 of this act.

a. The sum of $799,718, received as repayments of loans made to local governmental units under the "Water Conservation Bond Act," P.L.1969, c.127, and thereafter appropriated pursuant to section 5 of P.L.1975, c.158, is appropriated from the "Water Conservation Fund."

b. The sum of $4,098,670, received from water supply users benefitting from water supply projects constructed pursuant to section 2 of P.L.1981, c.28, is appropriated from the "Clean Waters Fund."

c. The sum of $2,043,642 representing amounts cancelled pursuant to section 1 of this act is appropriated from the "Water Conservation Fund."

d. The sum of $5,655,148 representing amounts cancelled pursuant to section 2 of this act is appropriated from the "Clean Waters Fund."

4. The $12,597,178 provided by section 3 of this act shall be used by the Department of Environmental Protection, to the extent possible, for sewerage infrastructure improvements at the following State facilities:

a. Department of Corrections
   1. Albert C. Wagner Youth Correctional Facility
   2. High Point Unit
   3. Highfield Group Unit
   4. Mountainview Youth Correctional Facility
   5. New Jersey Training School for Boys
   6. Stokes Forest Unit
   7. Wharton Tract, Yardville

b. Department of Human Services
   1. Ancora Psychiatric Hospital
   2. Arthur Brisbane Child Treatment Center
   3. Edward R. Johnstone Training and Research Center

4. Greystone Park Psychiatric Hospital
5. Marlboro Psychiatric Hospital
6. New Lisbon Developmental Center
7. North Jersey Developmental Center
8. North Princeton Developmental Center
9. Senator Garrett W. Hagedorn Center for Geriatrics
10. Woodbine Developmental Center

The funds provided pursuant to this section shall be divided equally between the Department of Corrections and the Department of Human Services.

5. This act shall take effect immediately.

Approved December 10, 1991.

CHAPTER 327

AN ACT concerning powers of campus police officers and amending P.L.1970, c.211 and N.J.S.2C:39-6.

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

1. Section 4 of P.L.1970, c.211 (C.18A:6-4.5) is amended to read as follows:

C.18A:6-4.5 Police powers.

4. Every person so appointed and commissioned shall possess all the powers of policemen and constables in criminal cases and offenses against the law anywhere in the State of New Jersey, pursuant to any limitations as may be imposed by the governing body of the institution which appointed and commissioned the person.

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 rail police officer of the New Jersey Transit Rail Operations 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 rail police officer of the New Jersey Transit Rail Operations 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 subsection d. of 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 December 20, 1991.

CHAPTER 328

AN ACT expanding Medicaid coverage to certain children 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; or

(14) Is a child born after September 30, 1983 who has attained 6 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.

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 Subtitle B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C. §9902(2)).

2. This act shall take effect immediately.

Approved December 20, 1991.

CHAPTER 329

AN ACT concerning restitution for victims of crime and increasing public funds available for victims and witnesses, amending various parts of the statutory law and supplementing chapter 46 of Title 2C and chapter 4B of Title 52.

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

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

Purposes; principles of construction.

2C:1-2. Purposes; principles of construction.

a. The general purposes of the provisions governing the definition of offenses are:

(1) To forbid, prevent, and condemn conduct that unjustifiably and inexcusably inflicts or threatens serious harm to individual or public interests;

(2) To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted, and their confinement when required in the interests of public protection;

(3) To subject to public control persons whose conduct indicates that they are disposed to commit offenses;

(4) To give fair warning of the nature of the conduct proscribed and of the sentences authorized upon conviction;

(5) To differentiate on reasonable grounds between serious and minor offenses; and

(6) To define adequately the act and mental state which constitute each offense, and limit the condemnation of conduct as criminal when it is without fault.

b. The general purposes of the provisions governing the sentencing of offenders are:

(1) To prevent and condemn the commission of offenses;

(2) To promote the correction and rehabilitation of offenders;

(3) To insure the public safety by preventing the commission of offenses through the deterrent influence of sentences imposed and the confinement of offenders when required in the interest of public protection;

(4) To safeguard offenders against excessive, disproportionate or arbitrary punishment;

(5) To give fair warning of the nature of the sentences that may be imposed on conviction of an offense;

(6) To differentiate among offenders with a view to a just individualization in their treatment;

(7) To advance the use of generally accepted scientific methods and knowledge in sentencing offenders; and

(8) To promote restitution to victims.

c. The provisions of the code shall be construed according to the fair import of their terms but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this section and the special purposes of the particular provision involved. The discretionary powers conferred by the code shall be exercised in accordance with the criteria stated in the code and, insofar as such criteria are not decisive, to further the general purposes stated in this section.

d. Nothing contained in this code shall limit the right of a defendant and, subject only to the federal and State constitutions, the right of the State to appeal or seek leave to appeal pursuant to law and Rules of Court.

2. N.J.S.2C:43-3 is amended to read as follows:

Fines and Restitutions.

2C:43-3. Fines and Restitutions. A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

a. $100,000.00, when the conviction is of a crime of the first or second degree;

b. $7,500.00, when the conviction is of a crime of the third or fourth degree;

c. $1,000.00, when the conviction is of a disorderly persons offense;

d. $500.00, when the conviction is of a petty disorderly persons offense;

e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the terms "gain" means the amount of money or the value of property derived by the offender and "loss" means the amount of value separated from the victim. The term "victim" shall mean

a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The term "gain" shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;

f. Any higher amount specifically authorized by another section of this code or any other statute;

g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code.

h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.

The restitution ordered paid to the victim shall not exceed his loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law. In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

3. Section 2 of P.L.1979, c.396 (C.2C:43-3.1) is amended to read as follows:

C.2C:43-3.1 Victim, witness, criminal disposition and collection funds.

2. a. (1) In addition to any disposition made pursuant to the provisions of N.J.S.2C:43-2, any person convicted of a crime of violence resulting in the injury or death of another person shall be assessed at least $100.00, but not to exceed $10,000.00 for each such crime for which he was convicted. In imposing this assessment, the court shall consider factors such as the severity of the crime, the defendant's criminal record, defendant's ability to pay and the economic impact of the assessment on the defendant's dependents.

(2) (a) In addition to any other disposition made pursuant to the provisions of N.J.S.2C:43-2 or any other statute imposing sentences

for crimes, any person convicted of any disorderly persons offense, any petty disorderly persons offense, or any crime not resulting in the injury or death of any other person shall be assessed $50.00 for each such offense or crime for which he was convicted.

(b) In addition to any other disposition made pursuant to the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other statute indicating the dispositions that can be ordered for adjudications of delinquency, any juvenile adjudicated delinquent, according to the definition of "delinquency" established in section 4 of P.L.1982, c.77 (C.2A:4A-23), shall be assessed at least $30.00 for each such adjudication, but not to exceed the amount which could be assessed pursuant to paragraph (1) or paragraph (2) (a) of subsection a. of this section if the offense was committed by an adult.

(c) In addition to any other assessment imposed pursuant to the provisions of R.S.39:4-50, any person convicted of operating a motor vehicle while under the influence of liquor or drugs shall be assessed $50.00.

(d) In addition to any term or condition that may be included in an agreement for supervisory treatment pursuant to N.J.S.2C:43-13 or imposed as a term or condition of conditional discharge pursuant to N.J.S.2C:36A-1, a participant in either program shall be required to pay an assessment of $50.00.

(3) All assessments provided for in this section shall be collected as provided in section 3 of P.L.1979, c.396 (C.2C:46-4) and all moneys collected, whether in part or in full payment of any assessment imposed pursuant to this section, shall be forwarded monthly by the parties responsible for collection, together with a monthly accounting on forms prescribed by the Violent Crimes Compensation Board pursuant to section 19 of P.L.1991, c.329 (C.52:4B-8.1), to the Violent Crimes Compensation Board.

(4) The Violent Crimes Compensation Board shall forward monthly all moneys received from assessments collected pursuant to this section to the State Treasury for deposit as follows:

(a) Of moneys collected on assessments imposed pursuant to paragraph a. (1):

(i) the first $72.00 collected for deposit in the Violent Crimes Compensation Board Account,

(ii) the next $3.00 collected for deposit in the Criminal Disposition and Revenue Collection Fund,

(iii) the next $25.00 collected for deposit in the Victim Witness Advocacy Fund, and

(iv) moneys collected in excess of $100.00 for deposit in the Violent Crimes Compensation Board Account;

(b) Of moneys collected on assessments imposed pursuant to paragraph a. (2) (a), (c) or (d):

(i) the first $39.00 collected for deposit in the Violent Crimes Compensation Board Account,

(ii) the next $3.00 collected for deposit in the Criminal Disposition and Revenue Collection Fund, and

(iii) the next $8.00 collected for deposit in the Victim and Witness Advocacy Fund;

(c) Of moneys collected on assessments imposed pursuant to paragraph a. (2) (b):

(i) the first $17.00 for deposit in the Violent Crimes Compensation Board Account and

(ii) the next $3.00 collected for deposit in the Criminal Disposition and Revenue Collection Fund, and

(iii) the next $10.00 for deposit in the Victim and Witness Advocacy Fund, and

(iv) moneys collected in excess of $30.00 for deposit in the Violent Crimes Compensation Board Account.

(5) The Violent Crimes Compensation Board shall provide the Attorney General with a monthly accounting of moneys received, deposited and identified as receivable, on forms prescribed pursuant to section 19 of P.L.1991, c.329 (C.52:4B-8.1).

(6) (a) The Violent Crimes Compensation Board Account shall be a separate, nonlapsing, revolving account that shall be administered by the Violent Crimes Compensation Board. All moneys deposited in that Account shall be used in satisfying claims pursuant to the provisions of the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) and for related administrative costs.

(b) The Criminal Disposition and Revenue Collection Fund shall be a separate, nonlapsing, revolving account that shall be administered by the Violent Crimes Compensation Board. All moneys deposited in that Fund shall be used as provided in section 19 of P.L.1991, c.329 (C.52:4B-8.1).

(c) The Victim and Witness Advocacy Fund shall be a separate, nonlapsing, revolving fund and shall be administered by the Division of Criminal Justice, Department of Law and Public Safety and all moneys deposited in that Fund pursuant to this section shall be used for the benefit of victims and witnesses of crime as provided in section 20 of P.L.1991, c.329 (C.52:4B-43.1) and for related administrative costs.

b. (Deleted by amendment, P.L.1991, c.329).
c. (Deleted by amendment, P.L.1991, c.329).
d. (Deleted by amendment, P.L.1991, c.329).

4. N.J.S.2C:43-4 is amended to read as follows:

Penalties against corporations; forfeiture of corporate charter or revocation of certificate authorizing foreign corporation to do business in the State.

2C:43-4. Penalties Against Corporations; Forfeiture of Corporate Charter or Revocation of Certificate Authorizing Foreign Corporation to do Business in the State.

a. The court may suspend the imposition of sentence of a corporation which has been convicted of an offense or may sentence it to pay a fine of up to three times the fine provided for in N.J.S.2C:43-3 in addition to any restitution required by N.J.S.2C:44-2.

b. When a corporation is convicted of an offense or a high managerial agent of a corporation, as defined in N.J.S.2C:2-7 is convicted of an offense committed in conducting the affairs of the corporation, the court may request the Attorney General to institute appropriate proceedings to dissolve the corporation, forfeit its charter, revoke any franchises held by it, or to revoke the certificate authorizing the corporation to conduct business in this State.

5. N.J.S.2C:43-13 is amended to read as follows:

Supervisory treatment procedure.

2C:43-13. Supervisory Treatment Procedure.

a. Agreement. The terms and duration of the supervisory treatment shall be set forth in writing, signed by the prosecutor and agreed to and signed by the participant. Payment of the assessment required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) shall be included as a term of the agreement. If the participant is represented by counsel, defense counsel shall also sign the agreement. Each order of supervisory treatment shall be filed with the county clerk.

b. Charges. During a period of supervisory treatment the charge or charges on which the participant is undergoing supervisory treatment shall be held in an inactive status pending termination of the supervisory treatment pursuant to subsection d. or e. of this section.

c. Period of treatment. Supervisory treatment may be for such period, as determined by the designated judge or the assignment judge, not to exceed three years, provided, however, that the period of supervisory treatment may be shortened or terminated

as the program director may determine with the consent of the prosecutor and the approval of the court.

d. Dismissal. Upon completion of supervisory treatment, and with the consent of the prosecutor, the complaint, indictment or accusation against the participant may be dismissed with prejudice.

e. Violation of conditions. Upon violation of the conditions of supervisory treatment, the court shall determine, after summary hearing, whether said violation warrants the participant's dismissal from the supervisory treatment program or modification of the conditions of continued participation in that or another supervisory treatment program. Upon dismissal of participant from the supervisory treatment program, the charges against the participant may be reactivated and the prosecutor may proceed as though no supervisory treatment had been commenced.

f. Evidence. No statement or other disclosure by a participant undergoing supervisory treatment made or disclosed to the person designated to provide such supervisory treatment shall be disclosed, at any time, to the prosecutor in connection with the charge or charges against the participant, nor shall any such statement or disclosure be admitted as evidence in any civil or criminal proceeding against the participant. Nothing provided herein, however, shall prevent the person providing supervisory treatment from informing the prosecutor, or the court, upon request or otherwise as to whether or not the participant is satisfactorily responding to supervisory treatment.

g. Delay. No participant agreeing to undergo supervisory treatment shall be permitted to complain of a lack of speedy trial for any delay caused by the commencement of supervisory treatment.

A person applying for admission to a program of supervisory treatment shall pay to the court a fee of $45.00. The court shall forward all money collected under this subsection to the treasurer of the county in which the court is located. This money shall be used to defray the cost of juror compensation within that county. A person may apply for a waiver of this fee, by reason of poverty, pursuant to the Rules Governing the Courts of the State of New Jersey.

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

Criteria for imposing fines and restitutions.

2C:44-2. Criteria for Imposing Fines and Restitutions.

a. The court may sentence a defendant to pay a fine in addition to a sentence of imprisonment or probation if:

(1) The defendant has derived a pecuniary gain from the offense or the court is of opinion that a fine is specially adapted to deterrence of the type of offense involved or to the correction of the offender;

(2) The defendant is able, or given a fair opportunity to do so, will be able to pay the fine; and

(3) The fine will not prevent the defendant from making restitution to the victim of the offense.

b. The court shall sentence a defendant to pay restitution in addition to a sentence of imprisonment or probation that may be imposed if:

(1) The victim, or in the case of a homicide, the nearest relative of the victim, suffered a loss; and

(2) The defendant is able to pay or, given a fair opportunity, will be able to pay restitution.

c. (1) In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.

(2) In determining the amount and method of payment of restitution, the court shall take into account all financial resources of the defendant, including the defendant's likely future earnings, and shall set the amount of restitution so as to provide the victim with the fullest compensation for loss that is consistent with the defendant's ability to pay. The court shall not reduce a restitution award by any amount that the victim has received from the Violent Crimes Compensation Board, but shall order the defendant to pay any restitution ordered for a loss previously compensated by the Board to the Violent Crimes Compensation Board. If restitution to more than one person is set at the same time, the court shall set priorities of payment.

d. Nonpayment. When a defendant is sentenced to pay a fine or make restitution, or both, the court shall not impose at the same time an alternative sentence to be served in the event that the fine or restitution is not paid. The response of the court to nonpayment shall be determined only after the fine or restitution has not been paid, as provided in section 2C:46-2.

e. Whenever the maximum potential fine which may be imposed on a conviction for an offense defined in the "Comprehensive Drug Reform Act of 1986," N.J.S. 2C:35-1 et al. depends on the street value of the controlled dangerous substance or controlled substance analog involved and the court intends to impose a fine in excess of the maximum ordinary fine applicable to the offense for which defendant was convicted, and where the fine has not been agreed to pursuant to the provisions of N.J.S.2C:35-

12, the court at the time of sentence shall determine the street value at the time and place of the offense based on the amount and purity of the controlled dangerous substance or controlled substance analog involved. The sentencing court's finding as to the street value may be based on expert opinion in the form of live testimony or by affidavit, or by such other means as the court deems appropriate. The court's finding as to street value shall not be subject to modification by an appellate court except upon a showing that the finding was totally lacking in support on the record or was arbitrary or capricious.

f. The ordering of restitution pursuant to this section shall not operate as a bar to the seeking of civil recovery by the victim based on the incident underlying the criminal conviction. Restitution ordered under this section is to be in addition to any civil remedy which a victim may possess, but any amount due the victim under any civil remedy shall be reduced by the amount ordered under this section to the extent necessary to avoid double compensation for the same loss, and the initial restitution judgment shall remain in full force and effect.

7. N.J.S.2C:44-6 is amended to read as follows:

Procedure on sentence; presentence investigation and report.

2C:44-6. Procedure on Sentence; Presentence Investigation and Report.

a. The court shall not impose sentence without first ordering a presentence investigation of the defendant and according due consideration to a written report of such investigation when required by Rules of Court. The court may order a presentence investigation in any other case.

b. The presentence investigation shall include an analysis of the circumstances attending the commission of the offense, the defendant's history of delinquency or criminality, family situation, financial resources, debts, including any amount owed for a fine, assessment or restitution ordered in accordance to the provisions of Title 2C, employment history, personal habits, the disposition of any charge made against any codefendants and may include a report on his physical and mental condition and any other matters that the probation officer deems relevant or the court directs to be included. The presentence report shall also include a report on any compensation paid by the Violent Crimes Compensation Board as a result of the commission of the offense and, in any

case where the victim chooses to provide one, a statement by the victim of the offense for which the defendant is being sentenced. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation department shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the presentence report if the victim or relative so desires. Any such statement shall be made within 20 days of notification by the probation department.

The presentence report shall specifically include an assessment of the gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance.

c. If, after the presentence investigation, the court desires additional information concerning an offender convicted of an offense before imposing sentence, it may order that he be examined as to his medical or mental condition, except that he may not be committed to an institution for such examination.

d. Disclosure of any presentence investigation report or psychiatric examination report shall be in accordance with law and the Rules of Court, except that information concerning the defendant's financial resources shall be made available upon request to the Violent Crimes Compensation Board or to any officer authorized under the provisions of N.J.S.2C:46-4 to collect payment on an assessment, restitution or fine.

e. The court shall not impose a sentence of imprisonment for an extended term unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

f. (Deleted by amendment, P.L.1986, c.85.)

8. N.J.S.2C:45-1 is amended to read as follows:

Conditions of suspension or probation.

2C:45-1. Conditions of Suspension or Probation.

a. When the court suspends the imposition of sentence on a person who has been convicted of an offense or sentences him to be placed on

probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or is likely to assist him to do so. These conditions may be set forth in a set of standardized conditions promulgated by the county probation department and approved by the court.

b. The court, as a condition of its order, may require the defendant:

(1) To support his dependents and meet his family responsibilities;

(2) To find and continue in gainful employment;

(3) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;

(4) To pursue a prescribed secular course of study or vocational training;

(5) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;

(6) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

(7) Not to have in his possession any firearm or other dangerous weapon unless granted written permission;

(8) (Deleted by amendment, P.L.1991, c.329).

(9) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;

(10) To report as directed to the court or the probation officer, to permit the officer to visit his home, and to answer all reasonable inquiries by the probation officer;

(11) To pay a fine;

(12) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience;

(13) To require the performance of community-related service.

c. The court, as a condition of its order, shall require the defendant to pay any assessments required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) and shall, consistent with the applicable provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to make restitution.

d. When the court sentences a person who has been convicted of a crime to be placed on probation, it may require him to serve a term of imprisonment not exceeding 364 days as an additional condition of its order. When the court sentences a person convicted of a disorderly persons offense to be placed on probation, it may require him to serve a term of imprisonment not exceeding

90 days as an additional condition of its order. In imposing a term of imprisonment pursuant to this subsection, the sentencing court shall specifically place on the record the reasons which justify the sentence imposed. The term of imprisonment imposed hereunder shall be treated as part of the sentence, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent sentence. A term of imprisonment imposed under this section shall be governed by the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Whenever a person is serving a term of parole as a result of a sentence of incarceration imposed as a condition of probation, supervision over that person shall be maintained pursuant to the provisions of the law governing parole. Upon termination of the period of parole supervision provided by law, the county probation department shall assume responsibility for supervision of the person under sentence of probation. Nothing contained in this section shall prevent the sentencing court from at any time proceeding under the provisions of this chapter against any person for a violation of probation.

e. The defendant shall be given a copy of the terms of his probation or suspension of sentence and any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly. The defendant shall acknowledge, in writing, his receipt of these documents and his consent to their terms.

9. N.J.S.2C:45-2 is amended to read as follows:

Period of suspension or probation; modification of conditions; discharge of defendant.

2C:45-2. Period of Suspension or Probation; Modification of Conditions; Discharge of Defendant.

a. When the court has suspended imposition of sentence or has sentenced a defendant to be placed on probation, the period of the suspension shall be fixed by the court at not to exceed the maximum term which could have been imposed or more than 5 years whichever is lesser. The period of probation shall be fixed by the court at not less than 1 year nor more than 5 years. The court, on application of a probation officer or of the defendant, or on its own motion, may discharge the defendant at any time.

b. During the period of the suspension or probation, the court, on application of a probation officer or of the defendant, or on its

own motion, may (1) modify the requirements imposed on the defendants; or (2) add further requirements authorized by N.J.S.2C:45-1. The court shall eliminate any requirement that imposes an unreasonable burden on the defendant.

c. Upon the termination of the period of suspension or probation or the earlier discharge of the defendant, the defendant shall be relieved of any obligations imposed by the order of the court and shall have satisfied his sentence for the offense unless the defendant has failed:

(1) to fulfill conditions imposed pursuant to paragraph b. (11) of N.J.S.2C:45-1, in which event the court may order that the probationary period be extended for an additional period not to exceed that authorized by subsection a. of this section; or

(2) to fulfill the conditions imposed pursuant to subsection c. of N.J.S.2C:45-1, in which event the court shall order that the probationary period be extended for an additional period not to exceed that authorized by subsection a. of this section.

The extension may be entered by the court without the defendant's personal appearance if the defendant agrees to the extension.

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

Time and method of payment; disposition of funds.

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

a. When a defendant is sentenced to pay an assessment pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine 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 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; and

(5) 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. 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 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 a fine a condition of probation.

c. The defendant shall pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), restitution, 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.

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

Consequences of nonpayment; summary collection.

2C:46-2. Consequences of Nonpayment; Summary Collection.

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

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

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

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

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

(2) If the court finds that the person defaulted on payment of a fine without good cause and finds that the default was willful, the court may, in addition to the action required by paragraph a. (1) of this section, impose a term of imprisonment to achieve the objective of the fine. The term of imprisonment in such case shall be specified in the order of commitment. It need not be equated with any particular dollar amount but it shall not exceed one day for each $20.00 of the fine nor 40 days if the fine was imposed upon conviction of a disorderly persons offense nor 25 days for a petty disorderly persons offense nor one year in any other case, whichever is the shorter period. In no case shall the total period of imprisonment in the case of a disorderly persons offense for both the sentence of imprisonment and for failure to pay a fine exceed six months.

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

(4) When failure to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution is determined to be willful, the failure to do so shall be considered to be contumacious.

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

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

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

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

installment thereof, the Violent Crimes Compensation Board or the party responsible for collection may institute summary collection proceedings authorized by subsection b. of this section.

12. Section 3 of P.L.1979, c.396 (C.2C:46-4) is amended to read as follows:

C.2C:46-4 Fines, assessments, restitution; collection; disposition.

3. a. All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and restitution shall be collected as follows:

(1) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and restitution imposed by the Superior Court or otherwise imposed at the county level, shall be collected by the county probation department except when such fine, assessment or restitution is imposed in conjunction with a custodial sentence to a State correctional facility in which event such fine, assessment or restitution shall be collected by the Department of Corrections. An adult prisoner of a State correctional institution who has not paid an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution shall have the assessment or restitution deducted from any income the inmate receives as a result of labor performed at the institution or on any type of work release program or, pursuant to regulations promulgated by the Commissioner of the Department of Corrections, from any personal account established in the institution for the benefit of the inmate.

(2) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and restitution imposed by a municipal court shall be collected by the municipal court clerk except if such fine, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or restitution is ordered as a condition of probation in which event it shall be collected by the county probation department.

b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts, all fines imposed by the Superior Court or otherwise imposed at the county level, shall be paid over by the officer entitled to collect same to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, in the county jail,

workhouse or penitentiary except where such county sentence is served concurrently with a sentence to a State institution; or

(2) The State Treasurer with respect to all other fines.

c. All fines imposed by municipal courts on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, and all forfeitures of bail shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located.

In the case of an intermunicipal court, fines shall be paid into the municipal treasury of the municipality in which the offense was committed, and costs, fees, and forfeitures of bail shall be apportioned among the several municipalities to which the court's jurisdiction extends according to the ratios of the municipalities' contributions to the total expense of maintaining the court.

d. All assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) shall be forwarded and deposited as provided in that section.

e. All mandatory Drug Enforcement and Demand Reduction penalties imposed pursuant to N.J.S.2C:35-15 shall be forwarded and deposited as provided for in that section.

f. All forensic laboratory fees assessed pursuant to N.J.S.2C:35-20 shall be forwarded and deposited as provided for in that section.

g. All restitution ordered to be paid to the Violent Crimes Compensation Board pursuant to N.J.S.2C:44-2 shall be forwarded to the Board for deposit in the Violent Crimes Compensation Board Account.

C.2C:46-4.1 Application of moneys collected, priority.

13. Moneys that are collected in satisfaction of any assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or in satisfaction of restitution or fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes, shall be applied in the following order:

a. first, in satisfaction of all assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1);

b. second, in satisfaction of any restitution ordered;

c. third, in satisfaction of any forensic laboratory fee assessed pursuant to N.J.S.2C:35-20;

d. fourth, in satisfaction of any mandatory Drug Enforcement and Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15; and

e. fifth, in satisfaction of any fine.

14. N.J.S.2C:35-15 is amended to read as follows:

Mandatory drug enforcement and demand reduction penalties; collection; disposition; suspension.

2C:35-15. Mandatory Drug Enforcement and Demand Reduction Penalties; Collection; Disposition; Suspension.

a. In addition to any disposition authorized by this title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed for each such offense a penalty fixed at:

(1) $3,000.00 in the case of a crime of the first degree;

(2) $2,000.00 in the case of a crime of the second degree;

(3) $1,000.00 in the case of a crime of the third degree;

(4) $750.00 in the case of a crime of the fourth degree;

(5) $500.00 in the case of a disorderly persons or petty disorderly persons offense.

Every person placed in supervisory treatment pursuant to the provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12 for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed the penalty prescribed herein and applicable to the degree of the offense charged, except that the court shall not impose more than one such penalty regardless of the number of offenses charged. If the person is charged with more than one offense, the court shall impose as a condition of supervisory treatment the penalty applicable to the highest degree offense for which the person is charged.

All penalties provided for in this section shall be in addition to and not in lieu of any fine authorized by law or required to be imposed pursuant to the provisions of N.J.S.2C:35-12.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Drug Enforcement and Demand Reduction Fund." Monies in the fund shall be appropriated by the Legislature on an annual basis for the purposes of funding the Alliance to Prevent Alcoholism and Drug Abuse and

other alcohol and drug abuse programs and shall not be used to fund administrative costs.

d. (Deleted by amendment, P.L.1991, c.329).

e. The court may suspend the collection of a penalty imposed pursuant to this section; provided the defendant agrees to enter a residential drug rehabilitation program approved by the court; and further provided that the defendant agrees to pay for all or some portion of the costs associated with the rehabilitation program. In this case, the collection of a penalty imposed pursuant to this section shall be suspended during the defendant's participation in the approved rehabilitation program. Upon successful completion of the program, the defendant may apply to the court to reduce the penalty imposed pursuant to this section by any amount actually paid by the defendant for his participation in the program. The court shall not reduce the penalty pursuant to this subsection unless the defendant establishes to the satisfaction of the court that he has successfully completed the rehabilitation program. If the defendant's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this section shall be enforced. Nothing in this section shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to this chapter or chapter 36 of this title.

15. Section 4 of P.L.1979, c.369 (C.2C:46-5) is amended to read as follows:

C.2C:46-5 Inapplicability of chapter to certain fines and restitutions.

4. Except as expressly provided, this chapter shall not affect fines and restitutions imposed under Title 39 of the Revised Statutes or in proceedings in the Superior Court, Chancery Division, Family Part, which shall remain as heretofore.

16. Section 4 of P.L.1969, c.22 (C.30:4-91.4) is amended to read as follows:

C.30:4-91.4 Withdrawals from inmate's account.

4. The commissioner, as a part of any work release program for an inmate, shall require that any wages, salary, earnings and other income of each gainfully employed prisoner be paid, less payroll deductions required or authorized by law, to the superintendent of the institution who shall deposit such sums so received to the credit of such inmate in a trust fund account at such institution. From such trust fund account belonging to any inmate the superintendent

of the institution is empowered to withdraw moneys, in an amount not to exceed one-half the total income, as follows:

The superintendent shall withdraw up to one-third of that amount in order to collect assessments, restitutions and fines pursuant to the requirements of N.J.S.2C:46-4.

The superintendent may withdraw up to two-thirds of that amount as may be required to pay the following:

(a) Such costs of maintenance related to the prisoner's confinement as are determined by the State Board of Control to be appropriate and reasonable.

(b) Necessary travel expenses to and from work or other business and incidental expenses of the prisoner.

(c) Support of the prisoner's dependents, if necessary.

(d) (Deleted by amendment, P.L.1991, c.329).

(e) Payment of either in full or ratably of the prisoner's debts which have been reduced to judgment or which have been acknowledged in writing by him.

(f) The balance, if any, shall be paid to the prisoner at the completion of the period of his confinement.

17. R.S.30:4-92 is amended to read as follows:

Compensation for inmates.

30:4-92. The inmates of all correctional and charitable, hospital, relief and training institutions within the jurisdiction of the State Board shall be employed in such productive occupations as are consistent with their health, strength and mental capacity and shall receive such compensation therefor as the State Board shall determine.

Compensation for inmates of correctional institutions may be in the form of cash or remission of time from sentence or both. Such remission from the time of sentence shall not exceed one day for each five days of productive occupation, but remission granted under this section shall in no way affect deductions for good behavior or provided by law.

From moneys paid to inmates of correctional institutions, the superintendent of the institution shall withdraw sufficient moneys, in an amount not to exceed one-third of the inmate's total income, as may be required to pay any assessment, restitution or fine ordered as part of any sentence.

In addition, all inmates classified as minimum security and who are considered sufficiently trustworthy to be employed in honor camps, farms or details shall receive further remission of time

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from sentence at the rate of three days per month for the first year of such employment and five days per month for the second and each subsequent year of such employment.

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

C.52:4B-18 Compensation for criminal injuries.

18. No order for the payment of compensation shall be made under section 10 of this act unless the application has been made within two years after the date of the personal injury or death or after that date upon determination by the board that good cause exists for the delayed filing, and the personal injury or death was the result of an offense listed in section 11 of this act which had been reported to the police within three months after its occurrence. The board will make its determination regarding the application within six months of acknowledgment by the board of receipt of the completed application and any and all necessary supplemental information.

In determining the amount of an award, the board shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board shall reduce the amount of the award or reject the application altogether, in accordance with such determination; provided, however, that the board shall not consider any conduct of the victim contributory toward his injury, if the record indicates such conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in his presence or had in fact committed a crime.

The board may deny or reduce an award where the victim has not paid in full any payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction for a crime.

No compensation shall be awarded if:

a. Compensation to the victim proves to be substantial unjust enrichment to the offender or if the victim did not cooperate with the reasonable requests of law enforcement authorities unless the victim demonstrates a compelling health or safety reason for not cooperating; or

b. (Deleted by amendment, P.L.1990, c.64.)

c. The victim was guilty of a violation of subtitle 10 or 12 of Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused or contributed to his injuries; or

d. The victim was injured as a result of the operation of a motor vehicle, except as provided in subsection (c) of section 11 of P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the same was used as a weapon in a deliberate attempt to run the victim down; or

e. The victim suffered personal injury or death while an occupant of a motor vehicle where the victim knew or reasonably should have known that the driver was operating the vehicle in violation of R.S.39:4-50;

f. The victim has been convicted of a crime and is still incarcerated; or

g. The victim sustained the injury during the period of incarceration immediately following conviction for a crime.

No award shall be made on an application unless the applicant has incurred a minimum out-of-pocket loss of $100.00 or has lost at least two continuous weeks' earnings or support; except that the requirement of a minimum out-of-pocket loss shall not apply to any applicant 60 years of age or older or any applicant who is disabled as defined pursuant to the federal Social Security Act (42 U.S.C.§ 416(i)). Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such application is based.

No compensation shall be awarded under this act in an amount in excess of $25,000.00, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this act shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

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 governmental agencies in developing, implementing, operating and improving 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.

C.52:4B-43.1 Continuation of the Victim and Witness Advocacy Fund.

20. a. The Victim and Witness Advocacy Fund, established in the State Treasury by section 2 of P.L.1979, c.396 (C.2C:43-3.1), administered by the Department of Law and Public Safety through the Division of Criminal Justice, pursuant to rules and regulations promulgated by the Director of the Division of Criminal Justice, to support the development and provision of services to victims and witnesses of crimes and for related administrative costs, is hereby continued.

b. The division is authorized to continue disbursing moneys deposited in the Victim and Witness Advocacy Fund to fund the operation of the State Office of Victim and Witness Advocacy, the 21 county offices of Victim and Witness Advocacy and to provide funding to other public entities as deemed appropriate for the implementation of the Attorney General Standards to Ensure the Rights of Crime Victims.

c. In addition, the division, pursuant to rules and regulations to be promulgated by the director to ensure that funds are given to qualified entities that will provide services consistent with this

act, shall award grants to qualified public entities and not-for-profit organizations that provide direct services to victims and witnesses, including but not limited to such services as:

(1) shelter, food and clothing;
(2) medical and legal advocacy services;
(3) 24-hour crisis response services and 24-hour hotlines;
(4) information and referral and community education;
(5) psychiatric treatment programs;
(6) expanded services for victims' families and significant others;
(7) short and long term counseling and support groups;
(8) emergency locksmith and carpentry services; and
(9) financial services.

d. Organizations eligible to apply for grants under subsection c. of this section include but are not limited to:

(1) member programs of the New Jersey Coalition for Battered Women, including but not limited to

(a) Atlantic County Women's Center;
(b) Shelter Our Sisters, (Bergen County);
(c) Providence House/ Willingboro Shelter, (Burlington County);
(d) YWCA/SOLACE, (Camden County);
(e) Family Violence Project and The Safe House, (Essex County);
(f) People Against Spouse Abuse, (Gloucester County);
(g) Battered Women's Program, (Hudson County);
(h) Women's Crisis Services, (Hunterdon County);
(i) Womanspace, Inc., (Mercer County);
(j) Women Aware, Inc., (Middlesex County);
(k) Women's Resource and Survival Center, (Monmouth County);
(l) Jersey Battered Women's Services, Inc., (Morris County);
(m) Passaic County Women's Center, (Passaic County);
(n) Salem County Women's Services, (Salem County);
(o) Resource Center for Women and Their Families, (Somerset County);
(p) Domestic Abuse Services, Inc., (Sussex County);
(q) Project Protect, (Union County);
(r) Domestic Abuse and Rape Crisis Center, Inc., (Warren County); and
(s) Ocean County Women's Center; and

(2) rape care services and programs, including, but not limited to:

(a) Atlantic County Women's Center, (Atlantic County);
(b) Bergen County Rape Crisis Center, (Bergen County);
(c) Women Against Rape, (Burlington County);
(d) Women Against Rape, (Camden County);

(e) Coalition against Rape and Abuse, (Cape May County);

(f) Cumberland County Guidance Center;

(g) North Essex Helpline and Sexual Assault Support Service, (Essex County);

(h) Gloucester County Rape Assault Prevention Program;

(i) Christ Hospital Mental Health Center, serving Hudson County;

(j) Women's Crisis Services, (Hunterdon County);

(k) Rape Crisis Program Mercer County YWCA, (Mercer County);

(l) Rape Crisis Intervention Center Roosevelt Hospital, (Middlesex County);

(m) Women's Resource Center, (Monmouth County);

(n) Parenting Center, Morristown Hospital, (Morris County);

(o) Ocean County Advisory Commission on the Status of Women, (Ocean County);

(p) Passaic County Women's Center, (Passaic County);

(q) Salem County Rape Crisis Service, (Salem County);

(r) Rape Crisis Service of Somerset and Richard Hall Mental Health Center Somerset County Coalition for the prevention and Treatment of Sexual Abuse;

(s) Project Against Sexual Assault Abuse, (Sussex County);

(t) Union County Rape Crisis Center;

(u) Domestic Abuse and Rape Crisis Center, (Warren County); and

(v) Alternatives to Domestic Violence of Hackensack, N.J. (Bergen County).

e. The director shall report annually to the Governor and the Legislature concerning the administration of the Victim and Witness Advocacy Fund and the administration and award of grants authorized by this section.

21. This act shall take effect immediately.

Approved December 23, 1991.

CHAPTER 330

AN ACT allowing the appointment of a fourth undersheriff in certain counties and amending N.J.S.40A:9-116.

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

1. N.J.S.40A:9-116 is amended to read as follows:

Limitations on number of undersheriffs.

40A:9-116. Limitations on number of undersheriffs.

Except as hereinafter provided, in all counties the sheriff may appoint not more than three undersheriffs. In counties in which the sheriff assumes the custody, keeping and charge of the county jail or jails and all prisoners therein, as provided by R.S.30:8-17, the sheriff may appoint one additional undersheriff. All such undersheriffs shall hold office during the pleasure of the sheriff making the appointment, or his successor. The undersheriffs shall be included in the unclassified service of the civil service.

2. This act shall take effect immediately.

Approved January 1, 1992.

CHAPTER 331

AN ACT concerning the prevention of certain types of insurance fraud and amending P.L.1983, c.320.

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

1. Section 3 of P.L.1983, c.320 (C.17:33A-3) is amended to read as follows:

C.17:33A-3 Definitions.

3. As used in this act:

"Attorney General" means the Attorney General of New Jersey or his designated representatives.

"Commissioner" means the Commissioner of Insurance.

"Director" means the Director of the Division of Insurance Fraud Prevention in the Department of Insurance.

"Division" means the Division of Insurance Fraud Prevention established by this act.

"Hospital" means any general hospital, mental hospital, convalescent home, nursing home or any other institution, whether operated for profit or not, which maintains or operates facilities for health care.

"Insurance company" means:

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

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

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

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

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

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

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

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

i. The New Jersey Automobile Full Insurance Underwriting Association operating pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.) and the Market Transition Facility operating pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11); and

j. Any risk retention group or purchasing group operating pursuant to the "Liability Risk Retention Act of 1986," 15 U.S.C. §3901 et seq.

"Person" means a person as defined in R.S.1:1-2, and shall include, unless the context otherwise requires, a practitioner.

"Practitioner" means a licensee of this State authorized to practice medicine and surgery, psychology, chiropractic, or law or any other licensee of this State whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations or the practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

"Producer" means an insurance producer as defined in section 2 of P.L.1987, c.293 (C.17:22A-2), licensed to transact the business of insurance in this State pursuant to the provisions of the "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293 (C.17:22A-1 et seq.).

"Statement" includes, but is not limited to, any application, writing, notice, expression, statement, proof of loss, bill of lading, receipt, invoice, account, estimate of property damage, bill for services, diagnosis, prescription, hospital or physician record, X-ray, test result or other evidence of loss, injury or expense.

2. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to read as follows:

C.17:33A-4 Violations.

4. a. A person or a practitioner violates this act if he:

(1) Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(2) Prepares or makes any written or oral statement that is intended to be presented to any insurance company or any insurance claimant in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(3) Conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled; or

(4) Prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining a motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this State when, in fact, that person resides or is domiciled in a state other than this State.

b. A person or practitioner violates this act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of this act.

c. A person or practitioner violates this act if, due to the assistance, conspiracy or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this act.

d. A person or practitioner who is the owner, administrator or employee of any hospital violates this act if he knowingly allows the use of the facilities of the hospital by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this act.

e. A person or practitioner violates this act if, for pecuniary gain, for himself or another, he directly or indirectly solicits any person or practitioner to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action, against any person, for damages for negligence, or, for pecuniary gain, for himself or another, directly or indirectly solicits other persons to bring causes of action to recover damages for personal injuries or death, or for pecuniary gain, for himself or another, directly or indirectly solicits other persons to make a claim for personal injury protection benefits pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.); provided, however, that this subsection shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.

3. Section 5 of P.L.1983, c.320 (C.17:33A-5) is amended to read as follows:

C.17:33A-5 Penalties; fund established.

5. a. If a person or practitioner is found by a court of competent jurisdiction, pursuant to a claim initiated by the commissioner, to have violated any provision of this act, the person or practitioner shall be subject to a civil penalty not to exceed $5,000.00 for the first violation, $10,000.00 for the second violation and $15,000.00 for each subsequent violation. The penalty shall be paid to the commissioner to be used in accordance with subsection b. of this section. The court may also award court costs and reasonable attorney fees to the commissioner.

Nothing in this subsection shall be construed to prohibit the commissioner and the person or practitioner alleged to be guilty of a violation of this act from entering into a written agreement in which the person or practitioner does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding relating to any violation of this act, but notification thereof shall be made to a licensing authority in the same manner as required pursuant to subsection c. of section 10 of P.L.1983, c.320 (C.17:33A-10).

b. The New Jersey Automobile Full Insurance Underwriting Association Auxiliary Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund into which shall be deposited all revenues from the civil penalties imposed pursuant to this section. Interest received on moneys in the fund shall be credited to the fund. The fund shall be administered by the Commissioner of Insurance and shall be used to help defray the operating expenses of the New Jersey Automobile Full Insurance Underwriting Association created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.).

4. Section 6 of P.L.1983, c.320 (C.17:33A-6) is amended to read as follows:

C.17:33A-6 Statement on insurance claim forms and motor vehicle insurance application forms.

6. a. Insurance claim forms shall contain a statement in a form approved by the commissioner that clearly states in substance the following: "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

b. (Deleted by amendment, P.L.1987, c.342.)

c. Insurance application forms for motor vehicle policies shall contain a statement in a form approved by the commissioner that clearly states in substance the following: "Any person who knowingly makes an application for motor vehicle insurance coverage containing any statement that the applicant resides or is domiciled in this State when, in fact that applicant resides or is domiciled in a state other than this State, is subject to criminal and civil penalties."

5. Section 8 of P.L.1983, c.320 (C.17:33A-8) is amended to read as follows:

C.17:33A-8 Division of Insurance Fraud Prevention.

8. a. There is established in the Department of Insurance the Division of Insurance Fraud Prevention. The division shall assist the commissioner in administratively investigating allegations of insurance fraud and in developing and implementing programs to prevent insurance fraud and abuse. The division shall promptly notify the Attorney General of any insurance application or claim which involves criminal activity. When so required by the commissioner and the Attorney General, the division shall cooperate with the Attorney General in the investigation and prosecution of criminal violations.

b. The commissioner shall appoint the full-time supervisory and investigative personnel of the division, including the director, who shall hold their employment at the pleasure of the commissioner without regard to the provisions of Title 11A of the New Jersey Statutes and shall receive such salaries as the commissioner from time to time designates, and who shall be qualified by training and experience to perform the duties of their position.

c. When so requested by the commissioner, the Attorney General may assign one or more deputy attorneys general to assist the division in the performance of its duties.

d. The commissioner shall also appoint the clerical and other staff necessary for the division to fulfill its responsibilities under this act. The personnel shall be employed subject to the provisions of Title 11A of the New Jersey Statutes, and other applicable statutes.

e. The commissioner shall appoint an insurance fraud advisory board consisting of eight representatives from insurers doing business in this State. The members of the board shall serve for two year terms and until their successors are appointed and qualified. The members of the board shall receive no compensation. The board shall advise the commissioner with respect to the implementation of this act, when so requested by the commissioner.

f. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before September 1 in each year, ascertain and certify to the commissioner the total amount of expenses incurred by the State in connection with the administration of this act during the preceding fiscal year, which expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of retirement contributions made and the workers' compensation paid for and on account of personnel, rentals for space occupied in State owned or State leased buildings and all other direct and indirect costs of the administration thereof.

g. The commissioner shall, on or before October 15 in each year, apportion the amount so certified to him among all of the companies writing the class or classes of insurance described in Subtitle 3 of Title 17 of the Revised Statutes (C.17:17-1 et seq.), and Subtitle 3 of Title 17B of the New Jersey Statutes (C.17B:17-1 et seq.), within this State in the proportion that the net premiums received by each of them for such insurance written or renewed on risks within this State during the calendar year imme-

diately preceding, as reported to him, bears to the sum total of all such net premiums received by all companies writing that insurance within the State during the year, as reported, except that no one company shall be assessed for more than 5% of the amount apportioned. The commissioner shall certify the sum apportioned to each company on or before November 15 next ensuing, and to the Division of Taxation in the Department of the Treasury. Each company shall pay the amount so certified as apportioned to it to the said Division of Taxation on or before December 31 next ensuing, and the sum paid shall be paid into the State Treasury in reimbursement to the State for the expenses paid.

"Net premiums received" means gross premiums written, less return premiums thereon and dividends credited or paid to policyholders.

h. The total appropriations recoverable under this section for the operation of the division shall not exceed $500,000.00 during its first full fiscal year of operation.

6. Section 9 of P.L.1983, c.320 (C.17:33A-9) is amended to read as follows:

Alleged violations; civil liability; records.

9. a. Any person who believes that a violation of this act has been or is being made shall notify the division immediately after discovery of the alleged violation of this act and shall send to the division, on a form and in a manner prescribed by the commissioner, the information requested and such additional information relative to the alleged violation as the division may require. The division shall review the reports and select those alleged violations as may require further investigation. It shall then cause an independent examination or evaluation of the facts surrounding the alleged violation to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists.

b. No person shall be subject to civil liability for libel, violation of privacy or otherwise by virtue of the filing of reports or furnishing of other information, in good faith and without malice, required by this section or required by the division as a result of the authority conferred upon it by law.

c. The commissioner may, by regulation, require insurance companies licensed to do business in this State to keep such records and other information as he deems necessary for the effective enforcement of this act.

7. This act shall take effect immediately.

Approved January 2, 1992.

CHAPTER 332

AN ACT concerning the penalties for consumer fraud and amending P.L.1966, c.39.

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

1. Section 1 of P.L.1966, c.39 (C.56:8-13) is amended to read as follows:

C.56:8-13 Penalties.

1. Any person who violates any of the provisions of the act to which this act is a supplement shall, in addition to any other penalty provided by law, be liable to a penalty of not more than $7,500 for the first offense and not more than $15,000 for the second and each subsequent offense.

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 333

AN ACT concerning the filing of certain documents with the Joint Legislative Committee on Ethical Standards and supplementing Title 52 of the Revised Statutes.

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

C.52:13D-22.1 Definition.

1. As used in this act, "document" means any statement, report, form, or accounting which is required to be filed with the Joint Legislative Committee on Ethical Standards within a pre-

scribed period or on or before a prescribed date pursuant to law or the legislative code of ethics promulgated pursuant to the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.). The term "within a prescribed period or on or before a prescribed date" includes any extension of time granted by the committee for filing a document.

C.52:13D-22.2 Timely postmark on mailed documents.

2. Any document which is mailed shall be deemed to be timely filed if the postmark stamped on the cover, envelope or wrapper in which the document was mailed bears a date on or before the date of the last day prescribed for filing the document.

C.52:13D-22.3 Weekend, holiday rule.

3. When the date or the last day prescribed for filing a document falls on a Saturday, Sunday or legal holiday, the next succeeding business day shall be regarded as the date of the last day prescribed for filing the document.

4. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 334

AN ACT concerning temporary permits for the sale of alcoholic beverages and amending R.S.33:1-74.

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

1. 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 $500.00, payable to the director of the division and to be accounted for by him 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.

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 335

AN ACT establishing penalties for vandalizing certain railroad warning signals and devices, and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

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

C.2C:33-14.1 Vandalizing railroad crossing devices; grading of offenses.

1. Any person who purposely, knowingly or recklessly defaces, damages, obstructs or otherwise impairs the operation of any railroad crossing warning signal or protection device, including, but not limited to safety gates, electric bell, electric sign or any other alarm or protection system authorized by the Commissioner of Transportation, which is required under the provisions of R.S.48:12-54 or R.S.48:2-29, shall, for a first offense, be guilty of a disorderly persons offense. For any subsequent violation of this act, the offender shall be guilty of a crime of the fourth degree.

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 336

AN ACT concerning the damaging or removal of traffic signs and amending N.J.S.2C:17-3 and P.L.1941, c.345.

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

1. N.J.S.2C:17-3 is amended to read as follows:

Criminal mischief.

2C:17-3. Criminal mischief a. Offense defined. A person is guilty of criminal mischief if he:

(1) Purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or negligently in the employment of fire, explosives or other dangerous means listed in section 2C:17-2a; or

(2) Purposely or recklessly tampers with tangible property of another so as to endanger person or property.

b. Grading. Criminal mischief is a crime of the third degree if the actor purposely causes pecuniary loss of $2,000.00 or more, or a substantial interruption or impairment of public communication, transportation (including, but not limited to, the defacement, injury or removal of an official traffic sign or signal), supply of water, gas or power, or other public service. It is a crime of the fourth degree if the actor causes pecuniary loss in excess of $500.00 but less than $2,000.00, or a disorderly persons offense if he causes pecuniary loss of $500.00 or less.

2. Section 6 of P.L.1941, c.345 (C.39:4-183.5) is amended to read as follows:

C.39:4-183.5 Damaging or removing traffic signs or signals; penalties.

6. No person shall purposely or knowingly, recklessly or negligently deface, injure or remove an official traffic sign or signal described in this act. A person who violates the provisions of this section shall be punished by a fine of not less than $100 or more than $200, imprisonment for a term not exceeding 30 days, or both. If a person under the age of 18 years is assessed a fine under this section, and the court determines that the person is unable to pay the fine, the person's parents or legal guardian shall be responsible for the imposed fine.

3. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 337

AN ACT concerning the defense of indigent persons and amending P.L.1981, c.364.

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

1. Section 1 of P.L.1981, c.364 (C.40:6A-1) is amended to read as follows:

C.40:6A-1 Lien on an indigent's property.

1. a. Whenever a county or municipality is required to pay the costs of the assignment of counsel and other related costs for the defense of an indigent person pursuant to R.3:27-2 of the Rules Governing the Courts of the State of New Jersey or pursuant to any rule or law subsequently enacted, the amount paid by the county or municipality for the defense of the indigent shall be a lien on any and all property which the defendant shall have or in which he shall acquire an interest. The county or municipal counsel shall effectuate such lien whenever the costs of the defense exceed $150.00. To effectuate the lien, the county or municipal counsel shall file a notice setting forth the amount which was paid for the defense of the indigent with the clerk of the superior court. The filing of said notice with the clerk of the superior court shall from the date thereof constitute a lien on said property for a period of 10 years, unless sooner discharged and except for such time limitations shall have the force and effect of a Judgment at Law. Within 10 days of the filing of the Notice of Lien, the county or municipal counsel shall send by certified mail, or serve personally a copy of such notice with a statement of the date of the filing thereof to or upon the defendant at his last known address.

b. Whenever a county or municipality voluntarily pays the costs of the assignment of counsel or employs or contracts with counsel or pays other related costs for the defense of an indigent person pursuant to R.3:27-2 of the Rules Governing the Courts of the State of New Jersey or pursuant to any rule or law subsequently enacted, the amount paid by the county or municipality for the defense of the indigent shall be a lien on any and all property which the defendant shall have or in which he shall acquire an interest. To effectuate the lien, the county or municipal counsel shall file a notice setting forth the amount which was paid for

the defense of the indigent with the clerk of the superior court. The filing of said notice with the clerk of the superior court shall from the date thereof constitute a lien on said property for a period of 10 years, unless sooner discharged and except for such time limitations shall have the force and effect of a Judgment at Law. Within 10 days of the filing of the Notice of Lien, the county or municipal counsel shall send by certified mail, or serve personally a copy of such notice with a statement of the date of the filing thereof to or upon the defendant at his last known address.

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 338

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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 sums are appropriated:

FEDERAL FUNDS
20 DEPARTMENT OF COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

10-2920 Public Broadcasting Services.....$743,000
Special Purpose:
Transmitter replacement program ..... ($743,000)

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 339

AN ACT concerning service charges by counties for certain checks which are returned for insufficient funds and supplementing Title 40 of the Revised Statutes.

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

C.40:5-19 Service charge on checks returned for insufficient funds; county imposition, fee, collection.

1. a. The governing body of a county may provide, by resolution or ordinance, as appropriate, for the imposition of a service charge to be added to any account owing to the county, if payment tendered on the account was by a check or other written instrument which was returned for insufficient funds.

b. The service charge for a check or other written instrument returned for insufficient funds shall be determined and set by resolution or by ordinance of the governing body, as appropriate, from time to time, but shall not exceed $20 per check or other written instrument.

c. Any service charge authorized by this section shall be collected in the same manner prescribed by law for the collection of the account for which the check or other written instrument was tendered. In addition, the governing body may require future payments to be tendered in cash or by certified or cashier's check.

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 340

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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
82 DEPARTMENT OF THE TREASURY
50 Economic Planning, Development and Security
52 Economic Regulation

56-2014 Energy Resource Management $200,000
Personal Services:
Salaries and wages..... ($200,000)

All federal funds appropriated in this section may be accounted for in accordance with receivable accounting procedures as may be determined by the Director of the Division of Budget and Accounting.

2. This act shall take effect immediately.

Approved January 6, 1992.

CHAPTER 341

AN ACT concerning penalties for motor vehicle operators fleeing or attempting to elude law enforcement officers, and amending N.J.S.2C:11-4, N.J.S.2C:12-1 and N.J.S.2C:29-2.

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

1. N.J.S.2C:11-4 is amended to read as follows:

Manslaughter.

2C:11-4. Manslaughter. a. Criminal homicide constitutes aggravated manslaughter when the actor recklessly causes death under circumstances manifesting extreme indifference to human life.

b. Criminal homicide constitutes manslaughter when:

(1) It is committed recklessly;

(2) A homicide which would otherwise be murder under section 2C:11-3 is committed in the heat of passion resulting from a reasonable provocation; or

(3) The actor causes the death of another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2. Notwithstanding the provision of any other law to the contrary, the actor shall be strictly liable for a violation of this paragraph upon proof of a violation of subsection b. of N.J.S.2C:29-2 which resulted in the death of another person.

c. Aggravated manslaughter is a crime of the first degree and upon conviction thereof a person may, notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between 10 and 30 years. Manslaughter is a crime of the second degree; however, a person convicted under paragraph (3) of subsection b. of this section may, notwithstanding the provisions of paragraph (2) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between five and 15 years.

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

Assault.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Aggravated assault under subsection b. (1) and b. (6) is a crime of the second degree; under subsection b. (2) and b. (7) is a crime of the third degree; under subsection b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree.

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

As used in this section, "auto or vessel" means all means of conveyance propelled otherwise than by muscular power.

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

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

3. N.J.S.2C:29-2 is amended to read as follows:

Resisting arrest; eluding officer.

2C:29-2. Resisting Arrest; Eluding Officer.

a. A person is guilty of a disorderly persons offense if he purposely prevents a law enforcement officer from effecting a lawful arrest, except that he is guilty of a crime of the fourth degree if he:

1. Uses or threatens to use physical force or violence against the law enforcement officer or another; or

2. Uses any other means to create a substantial risk of causing physical injury to the public servant or another.

It is not a defense to a prosecution under this subsection that the law enforcement officer was acting unlawfully in making the arrest, provided he was acting under color of his official authority and provided the law enforcement officer announces his intention to arrest prior to the resistance.

b. Any person, while operating a motor vehicle on any street or highway in this State, who knowingly flees or attempts to elude any police or law enforcement officer after having received any signal from such officer to bring the vehicle to a full stop is a disorderly person; except that, a person is guilty of a crime of the fourth degree if the flight or attempt to elude creates a risk of death or injury to any person. For purposes of this section, there shall be a permissive inference that the person's conduct during a flight or attempt to elude creates a risk of death or injury to any person if the conduct involves a violation of chapter 4 of Title 39 of the Revised Statutes. In addition to the penalty prescribed under this subsection or any other section of law, the court shall order the suspension of that person's driver's license for a period of not less than six months or

more than two years. If that license is suspended at the time such order is issued, the suspension so ordered shall commence on the date of the termination of the existing suspension.

The court shall collect the license which is being suspended and forward it to the Division of Motor Vehicles along with a report of the suspension. If the court is unable to collect the license, the court shall nevertheless forward the report to the division. The report from the court to the division shall include the complete name, address, date of birth, eye color, sex and driver's license number, if known, of the person whose license has been suspended and shall indicate the first and last calendar day of the suspension period ordered by the court under this subsection. If the person is the holder of a license from another jurisdiction, the court shall not collect the license but shall notify the division and the division shall notify the appropriate officials in the licensing state. The court, however, shall in accordance with the provisions of this subsection, suspend the person's non-resident driving privileges.

For the purposes of this subsection, it shall be a rebuttable presumption that the owner of a vehicle was the operator of the vehicle at the time of the offense.

4. This act shall take effect immediately.

Approved January 7, 1992.

CHAPTER 342

AN ACT designating the brook trout as the New Jersey State Fish.

WHEREAS, The brook trout received its name from the Pilgrims and has delighted outdoorsmen since colonial days with its vibrant colors and fighting form; and

WHEREAS, This fine species of fish inspired the Reverend Myron Reed, a noted angler of his day, to praise it as "...the gold sprinkled living arrow of the white water; able to zig-zag up the cataract; able to loiter in the rapids; whose dainty meat is the glancing butterfly"; and

WHEREAS, Naturally occurring populations of brook trout are found in the northwest part of the State and in the Pinelands; and

WHEREAS, Over 200,000 brook trout are raised each year at the Pequest Trout Hatchery as part of the State's trout stocking program; and

WHEREAS, The brook trout is highly sensitive to changes in its natural habitat and is therefore, a good indicator of environmental quality; and

WHEREAS, Because of a reduction in the number of brook trout in the wild due to destruction of its habitat by human development, the State has designated the brook trout a threatened species; and

WHEREAS, Public support for protecting the brook trout's habitat would contribute to the preservation of New Jersey's wilderness areas, it is fitting that the brook trout be accorded special recognition; now, therefore,

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

C.52:9AAAAAA-1 Designation of State Fish.

1. The brook trout (Salvelinus fontinalis) is designated as the New Jersey State Fish.

2. This act shall take effect immediately.

Approved January 8, 1992.

CHAPTER 343

AN ACT appropriating $100,832,000 from the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, for the construction, reconstruction, development, extension, improvement and equipment of classrooms, academic buildings, libraries, computer facilities and other higher education buildings at New Jersey's public and private institutions of higher education.

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

1. There is appropriated to the Department of Higher Education from the "Jobs, Education and Competitiveness Fund" created pursuant to section 14 of the "Jobs, Education and Competitiveness Bond Act of 1988," P.L. 1988, c.78, the sum of $100,832,000 for the purpose of constructing, reconstructing, developing, extending, improving and equipping classrooms, academic buildings, libraries, computer facilities and other higher education buildings. The sum shall be allocated to the following institutions of higher education

which shall provide funds to projects which have been approved by the State Board of Higher Education as provided below:

Project	Institution Funds	P.L.1988, c.78 Bond Funds
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT RUTGERS, THE STATE UNIVERSITY		
Addition to Dana Library at the Newark Campus of Rutgers, the State University	$1,355,000	$6,025,000
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT THE AGRICULTURAL EXPERIMENT STATION OF RUTGERS, THE STATE UNIVERSITY		
Construction of Field Laboratory for Agricultural Biotechnology Station at the Cook Campus of the Agricultural Experiment Station, Rutgers, The State University	$4,000,000	$3,000,000
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY		
Renovation of New Jersey Medical School at the Newark Campus of the University of Medicine and Dentistry of New Jersey	$0	$1,250,000
Renovation of the Martland Street Administration Building at the Newark Campus of University of Medicine and Dentistry of New Jersey	$0	$12,750,000
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT THE NEW JERSEY STATE COLLEGES		
Construction of addition to Bozorth Hall at Glassboro State College	$550,000	$1,100,000
Construction of New Library at Glassboro State College	$7,600,000	$9,200,000

Project	Institution Funds	P.L.1988, c.78 Bond Funds
Construction of Academic Building at Jersey City State College	$2,801,000	$7,600,000
Construction of Campus Police and Receiving Building at Montclair State College	$508,000	$325,000
Construction of Campus Access Road at Montclair State College	$788,000	$1,420,000
Expansion of Fine and Performing Arts Building at Montclair State College	$1,597,000	$1,827,000
Expansion of Sprague Library at Montclair State College	$2,908,000	$5,658,000
Construction of School of Humanities and Social Science Building at Montclair State College	$10,429,000	$3,770,000
Construction of Academic Building and Academic and Administrative Computer Centers at William Paterson State College	$5,500,000	$1,300,000
Addition and renovation of Library at William Paterson State College	$0	$9,300,000
Construction of Arts and Environmental Science Building at Stockton State College	$3,300,000	$5,300,000
Addition to Library at Stockton State College	$2,300,000	$4,700,000
Addition to Library at Kean College	$1,712,000	$3,423,000
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT COUNTY COMMUNITY COLLEGES		
Construction of Integrated Learning Resource Center at Burlington County College	$4,000,000	$2,000,000
Construction of Fine Arts Building at Cumberland County College	$2,733,000	$1,367,000
Construction of Academic Building at Hudson County Community College	$3,533,000	$1,767,000

Project	Institution Funds	P.L.1988, c.78 Bond Funds
Construction of Addition to Learning Resource Center and Campus Services Building at Ocean County College	$3,699,000	$1,800,000
CONSTRUCTION OF BOARD OF HIGHER EDUCATION STATEWIDE HIGHER EDUCATION BUILDINGS		
Joint Construction of Technology Education Center by Burlington County College and the New Jersey Institute of Technology	$0	$8,000,000
Northern Central Computer Integrated Manufacturing Facility at New Jersey Institute of Technology	$0	$2,000,000
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT INDEPENDENT INSTITUTIONS		
Construction of Library at Georgian Court College	$6,300,000	$1,000,000
Renovation of Henderson Hall at the College of Saint Elizabeth	$1,642,000	$750,000
Construction of Library at Seton Hall University	$17,000,000	$3,000,000
Renovation of Mead Hall at Drew University	$1,200,000	$1,200,000

2. The expenditures of the sums appropriated by this act are subject to the provisions and conditions of P.L. 1988, c.78.

3. The New Jersey Department of Higher Education shall apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer funds among items of appropriation within section 1 of this act, provided that pursuant to section 5 of P.L.1988, c.78 any appropriation for Board of Higher Education statewide and regional projects shall not be transferred to projects of construction of higher education buildings at private institutions of higher education. Upon the approval of an application by the

director and the Joint Budget Oversight Committee, or its successor, in writing, the director shall make the transfer as provided by law.

4. In addition to any other reporting requirements 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 upon project site inspections and other inquiries, describing the status of 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, an 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 September 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 the report may be submitted less than nine months after the submission of the immediately preceding report

5. This act shall take effect immediately.

Approved January 8, 1992.

CHAPTER 344

AN ACT concerning the Delaware and Raritan Canal, assigning temporary jurisdiction over certain structures thereof to the Department of Transportation, creating a commission to review the safety of certain structures, amending R.S.13:13-3 and P.L.1944, c.172, supplementing chapter 13 of Title 13 of the Revised Statutes, and making an appropriation.

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

1. The Legislature finds and declares that:

a. Governor Peter Vroom and members of the Legislature officially opened the Delaware and Raritan Canal on June 24, 1834, providing an avenue for transportation between Philadelphia and New York, and providing markets for New Jersey farm goods, as well as industrial products from the cities of Trenton and New Brunswick;

b. The canal operated as an avenue for commercial goods from 1834 until the winter of 1932-33 when it was closed to navigation, and began its present function of providing a valuable water supply, historic, recreation, and ecological resource that continues to be used by the citizens of this State;

c. The value of the canal was recognized by the Legislature, when the 60 mile area of land along the canal was established as a state park, as well as the federal government, which placed the canal on the National Registry of Historic Places;

d. However, the benefits associated with the canal have been threatened by deficient safety at bridges that traverse the canal, as well as the substandard construction or total lack of needed barriers and guardrails along the approaches to the canal, and the various roads that parallel its length;

e. It is therefore altogether fitting and proper for the Legislature to create a study commission to investigate the relevant public safety issues regarding the Delaware and Raritan Canal, and during the period of investigation to provide for interim jurisdiction by the Department of Transportation so that persons using, or traveling near this precious resource are protected.

2. R.S.13:13-3 is amended to read as follows:

Repair and preservation of canal and feeder and banks thereof.

13:13-3. The canal and feeder shall continue to be a public highway, and, until the legislature shall have further directed the use or disposition of the canal and feeder, the Department of Environmental Protection or its designee, the New Jersey Water Supply Authority, shall, until further directions of the legislature, repair and preserve the banks of the canal and feeder, and at all times keep a flow of water through the canal at a level heretofore maintained when the canal was in operation or as necessary to conduct dredging operations or effect repairs, except that, during the period of December fifteenth of each year and March first of the ensuing year, the department may close the canal or maintain such flow of water as it deems desirable or necessary to comply with any contract for the sale of water.

To insure the flow aforesaid and in order to preserve sanitary conditions in the canal and about the banks thereof and the towpath adjacent thereto, the feeder, the canal and the banks thereof and the towpath shall be kept free of weeds and other growth, save and except such growth as, in the judgment of the department, is conducive to the appearance of the canal and feeder and the banks and towpath thereof.

3. Section 8 of P.L.1944, c.172 (C.13:13-12.8) is amended to read as follows:

C.13:13-12.8 Bridges; possession by Department of Transportation.

8. The provisions of any law, rule, or regulation to the contrary notwithstanding, and until further direction from the Legislature, the Department of Transportation in co-operation with the Department of Environmental Protection is empowered and directed to enter upon and take possession of, all of the existing vehicle bridges carrying State, county, or municipal roads and any guardrails or barriers along the approaches to any such vehicle bridges over the canal.

C.13:13-3.1 Department of Transportation, control and responsibility for bridge maintenance; commissioner may close public access.

4. The provisions of any law, rule, or regulation to the contrary notwithstanding, and until further direction from the Legislature, the Department of Transportation shall have control and responsibility for the maintenance, repair, rehabilitation and replacement of any existing vehicle bridges over the Delaware and Raritan Canal carrying State, county, or municipal roads and any guardrails or barriers along the approaches to these vehicle bridges. The commissioner, in accordance with generally accepted engineering principles, standards or techniques, may, in order to protect the public safety, order the closing of public access, including roads, highways, sidewalk, tracks, paths or passageways, leading to, in, under or near any bridge described pursuant to this amendatory and supplementary act, the provisions of any law, rule, or regulation to the contrary notwithstanding.

C.13:13-3.2 Department of Transportation, consult prior to bridge repair; responsibility for bridge design.

5. The Department of Transportation shall consult with the Department of Environmental Protection and the Delaware and Raritan Canal Commission, not less than 30 days before the Department of Transportation undertakes, or causes to be undertaken, any maintenance, repair, rehabilitation and replacement performed upon any existing vehicle

bridges carrying State, county, or municipal roads and any guardrails or barriers along the approaches to these vehicle bridges over the Delaware and Raritan Canal. The provisions of section 5 of P.L.1974, c.118 (C.13:13A-5), Section 4 of P.L.1970, c.268 (C.13:1B-15.131), or any other law, rule, or regulation to the contrary notwithstanding, the Department of Transportation shall be responsible for the design of any bridges or structures appurtenant thereto along or traversing the canal.

C.13:13-3.3 Right-of-way permission provided.

6. Each person, agency of the State or instrumentality thereof owning or controlling a right-of-way shall provide permission for the use of and sufficient access to that right-of-way, and any other incidental services required by the Department of Transportation to undertake its responsibilities under this amendatory and supplementary act.

C.13:13-3.4 Rules, regulations.

7. The Commissioner of Transportation shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) adopt the rules and regulations necessary to carry out its responsibilities under the provisions of this amendatory and supplementary act.

8. There is created a commission to be known as the Delaware and Raritan Canal Transportation Safety Study Commission with a membership of 13 members appointed as follows:

a. Two members of the Senate, to be appointed by the President thereof, who shall be of different political parties, and two members of the General Assembly, to be appointed by the Speaker thereof, who shall be of different political parties. The members appointed from the Legislature shall serve only as long as they are members of the House to which they were elected;

b. One representative from the Department of Transportation appointed by the commissioner thereof, one representative of the Department of Environmental Protection appointed by the commissioner thereof, one representative of the Delaware and Raritan Canal Commission appointed from the membership of that commission, and one representative of the New Jersey Water Supply Authority appointed by the executive director thereof; and

c. Five public members, to be appointed by the Governor, four of whom shall be chosen from among persons residing in the counties of Hunterdon, Somerset, Mercer, and Middlesex, and two of whom chosen from persons residing in municipalities adjacent to the Delaware and Raritan Canal State Park. In making the appointments to the commission, the Governor shall consider the recommendations of

concerned environmental groups; transportation groups; historical associations; and members of relevant professions.

All appointments shall be made within 60 days of the effective date of this act. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation for performing their duties as members, but the commission may, within the limits of funds appropriated or otherwise made available therefor, reimburse members for the actual expenses necessarily incurred in the performance of their duties.

9. The commission shall organize within 30 days after the appointment of its members. The members appointed under subsections a. and c., only, of section 8 of this amendatory and supplementary act shall designate one of the members appointed under subsection a. or c., only, of section 8 as chairman of the commission. The commission shall convene as soon as practicable after the appointment of its members, to select a chairman in the manner described in this section and to hold an organizational meeting. The commission also shall select a secretary who need not be a member of the commission.

10. It shall be the duty of the commission to study all transportation, recreational, and other safety hazards associated with the Delaware and Raritan Canal, and to inquire into the ways in which these hazards might be reduced. In conducting the study, the commission shall address such issues as, but shall not necessarily be limited to, the intergovernmental and jurisdictional questions concerning bridges that traverse the canal, the condition of barriers, guardrails, and fences along the canal, maintaining the historic and aesthetic integrity of the canal, and the costs associated with the construction and maintenance of these structures.

11. The commission shall be entitled to call to its assistance and avail itself of the services and assistance of officials and employees of the State and its political subdivisions and their departments, boards, bureaus, authorities, commissions, and agencies as it may require and as may be available to it for its purposes, and to employ stenographic, and clerical assistants and incur such traveling and other miscellaneous expenses as necessary, in order to perform its duties, and may expend any funds appropriated or otherwise made available to it for the purposes of

its study. In addition, the Departments of Transportation and Environmental Protection, the Delaware and Raritan Canal Commission, and the New Jersey Water Supply Authority shall provide whatever staff assistance the commission may request.

12. The commission may meet and hold hearings at any time and at any place or places as it shall designate. The commission shall report its findings, conclusions and recommendations to the Governor and the Legislature as soon as practicable but not later than 15 months after the organizational meeting provided for pursuant to section 9 of this amendatory and supplementary act, along with any proposed legislation which it may desire to recommend for adoption by the Legislature.

13. There is appropriated $5,000 to the Department of Transportation from the General Fund to be used exclusively for the duties and responsibilities of the Delaware and Raritan Canal Transportation Safety Study Commission as described in this amendatory and supplementary act.

14. This act shall take effect immediately, and sections 8 through 12 shall expire 16 months following the date of the organizational meeting provided for pursuant to section 9 of this act.

Approved January 9, 1992.

CHAPTER 345

AN ACT appropriating $2,115,000 from the "Water Supply Fund" for State projects for feasibility studies, groundwater studies and evaluations related to aquifer contamination and regional water resources, and the development of a county water conservation program.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by

P.L.1983, c.355, the sum of $2,115,000 for State projects for feasibility studies, ground water studies and evaluations related to aquifer contamination and regional water resources, and the development of a county water conservation program, as follows:

a.	Estuary Impact Feasibility Study	$1,000,000
b.	Great Egg Harbor River Basin Regional Water Resources Evaluation	200,000
c.	Cape May Aquifer Recharge Regional Water Resources Evaluation	100,000
d.	Atlantic County Groundwater Study	690,000
e.	Development of Cape May County Water Conservation Program	125,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 346

AN ACT appropriating $3,440,000 from the "Water Supply Fund" for State projects and studies related to water supply, wetlands impact, water management planning, and geological and geographic data systems, providing for flexibility in the administration of monies appropriated from the "Water Supply Fund," and cancelling part of a previous appropriation.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $3,440,000 for State projects and stud-

ies related to water supply, wetlands impact, water management planning, and geological and geographic data systems, as follows:

a. Passaic-Hackensack Water Supply Basin Study	$800,000
b. Completion of Water Resources Geographic Information System	450,000
c. Cooperative Geological Map: Completion of Statewide Map of Geological Formations	690,000
d. U.S. Geological Survey Matching Funds for Water Management Planning	500,000
e. Wetlands Impact Study	1,000,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. Of the $50,000,000 appropriated to the Department of Environmental Protection from the "Water Supply Fund," pursuant to section 1 of P.L.1985, c.416, for the purpose of making a loan to the North Jersey District Water Supply Commission to finance a portion of its share of the cost of the Monksville Reservoir-Wanaque South water supply project, a sum of $8,000,000 shall be cancelled and returned to the "Water Supply Fund."

4. In order to provide flexibility in administering monies appropriated from the "Water Supply Fund," the Commissioner of Environmental Protection:

a. may transfer all or a portion of any monies appropriated from the "Water Supply Fund" for a specific project pursuant to any previous act or any act enacted in the 1992 fiscal year to any other specific project in the same project category for which monies have been appropriated from the "Water Supply Fund" pursuant to any previous act or any act enacted in the 1992 fiscal year, as such project categories have been established by the Department of Environmental Protection in order to implement the "Water Supply Bond Act of 1981," as amended by P.L.1983, c.355, and the New Jersey Statewide Water Supply Plan. The commissioner shall provide notification of any such transfer to the Director of the Division of Budget and Accounting in the Department of the Treasury and to the Joint Budget Oversight Committee or its successor. Such notification shall specifically identify which project or

projects will be allocated increased funding and which will lose funding, and the respective amounts thereof; and

b. shall apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer all or a portion of any monies appropriated from the "Water Supply Fund" for a specific project pursuant to any previous act or any act enacted in the 1992 fiscal year to any other specific project in a different project category for which monies have been appropriated from the "Water Supply Fund" pursuant to any previous act or any act enacted in the 1992 fiscal year, as such project categories have been established by the Department of Environmental Protection in order to implement the "Water Supply Bond Act of 1981," as amended by P.L.1983, c.355, and the New Jersey Statewide Water Supply Plan. The application shall specifically identify which project or projects will be allocated increased funding and which will lose funding, and the respective amounts thereof. Upon the written approval of an application by the director and by the Joint Budget Oversight Committee or its successor, the director shall make the transfer as provided by law.

5. The Department of Environmental Protection shall, within 48 months of the effective date of this act, transmit to the Legislature and the Governor a summary report of each project conducted or performed utilizing monies appropriated from the "Water Supply Fund" pursuant to this act or any other act enacted in the 1992 fiscal year. Each summary shall include a project description, its findings, conclusions and recommendations, and a description of further studies recommended for funding under the "Water Supply Bond Act of 1981."

6. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 347

AN ACT appropriating $1,700,000 from the "Water Supply Fund" for State projects for a feasibility study and regional water resources evaluations related to aquifer contamination and the effects of overdevelopment on water supplies.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $1,700,000 for State projects for a feasibility study and regional water resources evaluations related to aquifer contamination and the effects of overdevelopment on water supplies, as follows:

a.	Ocean County Feasibility Study	$500,000
b.	Metedeconk/Toms/Tuckahoe River Basins Regional Water Resources Evaluation	600,000
c.	Cedar Creek/Forked River/Sloop Creek Regional Water Resources Evaluation	600,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 348

AN ACT appropriating $3,980,000 from the "Water Supply Fund" for State projects for feasibility and groundwater studies related to growth areas, coastal plains and aquifer evaluation, and for water supply studies.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981", P.L.1981, c.261, as amended by P.L.1983, c.355,

the sum of $3,980,000 for State projects for feasibility and groundwater studies related to growth areas, coastal plains and aquifer evaluation, and for water supply studies, as follows:

a.	Manasquan River Water Supply Study	$800,000
b.	Growth Areas Feasibility Study.....	1,800,000
c.	Confined Coastal Plain Groundwater Study..	690,000
d.	Vincentown/Mt. Laurel/Wenonah Aquifer Groundwater Study	690,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 349

AN ACT appropriating $3,180,000 from the "Water Supply Fund" for State projects for feasibility, groundwater, and regional water resources evaluation studies.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981", P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $3,180,000 for State projects for feasibility, groundwater, and regional water resources evaluation studies, as follows:

a.	Buried Valley Feasibility Study	$600,000
b.	Buried Valley Groundwater Study	690,000
c.	Lamington Regional Water Resources Evaluation	400,000
d.	Lamington Ground Water Study	690,000
e.	Delaware River Flow Augmentation Feasibility Study	800,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 350

AN ACT appropriating $2,470,000 from the "Water Supply Fund" for State projects for feasibility and groundwater studies and regional water resources evaluations related to water supplies and aquifer contamination and remediation.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981", P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $2,470,000 for State projects for feasibility and groundwater studies and regional water resources evaluations related to water supplies and aquifer contamination and remediation, as follows:

a.	Northwest Mercer County Feasibility Study	$200,000
b.	Northwest Mercer County Groundwater Study	690,000
c.	Rockaway River Basin Regional Water Resources Evaluation	200,000
d.	Rockaway Groundwater Study.	690,000
e.	Germany Flats Groundwater Study	690,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 351

AN ACT appropriating moneys from the "Water Supply Fund" for loans for local projects to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $25,000,000 for loans for local projects to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities, as recommended in the New Jersey Statewide Water Supply Plan.

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

Merchantville-Pennsauken MUA	Main and meter replacement, cleaning and lining of mains	$3,000,000
Camden City	Replacement of mains	$3,000,000
Ringwood Borough	Replacement of mains	1,000,000
Perth Amboy City	Rehabilitation of tank and looping of mains	1,000,000
South Orange Village	Replacement, cleaning, and lining of mains	1,000,000
Barnegat Township	Replacement of mains	775,000
Long Beach Township	Replacement of mains	1,000,000
Gloucester City	Replacement of mains	500,000
Chester Borough	Replacement of mains and looping	500,000
Cape May Point Borough	Replacement of mains	230,000
Matawan Borough	Replacement of mains	500,000
Beachwood Borough	Rehabilitation of storage tank	148,000
Swedesboro Borough	Replacement of mains	500,000
Beach Haven Borough	Replacement of mains	500,000

c. The remaining monies appropriated pursuant to subsection a. of this section and not utilized for loans pursuant to subsection b. of this section shall be available to the department for the purposes enumerated in subsection a. of this section, and shall be allocated to projects for which applications have been received by the department prior to July 1, 1991, and prioritized in accordance with regulations adopted pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355, provided that the Speaker of the

General Assembly and the President of the Senate shall be notified, in writing, regarding the allocation of the remaining monies.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations adopted by the department pursuant thereto.

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

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

5. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 352

AN ACT appropriating moneys from the "Water Supply Fund" for the purpose of providing loans for the construction and extension of water supply facilities to replace contaminated wells.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $4,950,000, to supplement the sum appropriated pursuant to P.L.1987, c.366, for the purpose of providing loans for the construction of water supply facilities to replace contaminated wells. The amount appropriated by this act, in addition to the amount appropriated pursuant to P.L.1987, c.366, shall be allocated by the department to the applicants prioritized in accordance with regulations.

b. The following applicants shall be eligible for placement on the priority list for receipt of a water supply facility loan:

Pennington Borough	Extension of mains	$156,000
Lacey Township MUA	Extension of mains	3,000,000
Bridgeton City	Construction of water treatment units	2,000,000
Lakewood Township	Extension of water mains	2,000,000
Vineland City	Extension of water systems	300,000
Oakland Borough	Construction of air strippers	1,000,000
Millville City	Construction of air strippers	1,500,000
Hopewell Township	Extension of water mains	2,930,280
Franklin Borough	Extension of water mains and well facilities	772,500
Wharton Borough	Construction of air strippers	425,330

c. The remaining monies appropriated pursuant to subsection a. of this section and not utilized for loans pursuant to subsection b. of this section shall be available to the department for the purposes enumerated in subsection a. of this section, and shall be allocated to projects for which applications are received by the department, and prioritized in accordance with regulations adopted pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355, provided that the Speaker of the General Assembly and the President of the Senate shall be notified, in writing, regarding the allocation of the remaining monies.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations adopted by the department pursuant thereto.

3. From the sums appropriated by this act, the commissioner may allocate funds for personal services by contract, or, in lieu thereof, by State employees for the purpose of planning, engi-

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

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

5. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 353

AN ACT appropriating monies from the "Water Supply Fund" for the development and implementation of a wellhead protection program.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355, the sum of $1,700,000 for the following projects to develop and implement a wellhead protection program:

a. Delineation of interim wellhead protection areas $1,000,000
b. County and regional demonstration projects and competitive grant program..... $350,000
c. County and local outreach programs..... $250,000
d. Finalized wellhead protection areas demonstration projects $100,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355, and any regulations promulgated by the Department of Environmental Protection pursuant to P.L.1981, c.261, as amended by P.L.1983, c.355.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 354

AN ACT concerning the use of model rockets and supplementing P.L.1960, c.55 (C.21:1A-128 et seq.).

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

C.21:1C-1 Definitions.

1. As used in this act:

"Model rocket" means a commercially made rocket that is propelled by a rocket motor; that contains a device for returning it to the ground in a condition to fly again; whose structural parts are made of paper, wood, or breakable plastic and contain no substantial metal parts; and whose primary use is for purposes of education, recreation, and sporting competition.

"Rocket motor" means a device that provides the necessary force or thrust to cause a rocket to move and the force or thrust is created by the discharge of gas generated by combustion, decomposition, change of state, or other operation of materials completely stored within the rocket motor during the commercial manufacturing process and requiring no mixing of propellants.

C.21:1C-2 Examination and testing of model rockets; certification.

2. Model rockets offered for sale, sold, used, or made available to the public in this State shall be examined and tested by the Department of Labor to determine if they comply with the requirements of this act and with the rules and regulations promulgated thereto. The Commissioner of the Department of Labor shall certify as acceptable for sale and use those products that do comply. At the discretion of the commissioner, the examination, testing, and certifi-

cation may be carried out by an approved testing laboratory or an organization such as the National Association of Rocketry or an organization affiliated with the National Aeronautic Association.

The commissioner shall maintain a current and complete list of all model rockets which have received certification and shall make copies of this list available to any person upon request.

C.21:1C-3 Model rocket, certification required for sale or usage.

3. A model rocket shall not be sold, offered for sale, made available to the public, or used in this State unless it has been certified by the commissioner.

A model rocket shall not be used in this State except in accordance with this act and in compliance with the rules and regulations promulgated in accordance with section 6 of this act.

C.21:1C-4 Age requirements of purchaser; storage permit conditions.

4. a. A person at least 14 years of age, but less than 18 years of age, shall be eligible to purchase and use a model rocket bearing the standardized engine coding 1/4A, 1/2A, A, B, and C provided that the person has a consent form signed by a parent or legal guardian.

b. A person at least 18 years of age shall be permitted to purchase and use a model rocket of any type or size.

c. A person at least 12 years of age but less than 14 years of age who is a participant in a bona fide model rocket education program may fire a model rocket bearing the standardized engine coding 1/4A, 1/2A, A, B, and C only when under the direct supervision and control of a person who is at least 21 years of age and only during the course of the model rocket education program.

d. A person shall be required to obtain a permit for the storage of more than 100 kg. (220 lbs.) of solid propellant model rockets. No other permit shall be required for the possession, use, purchase, transportation, or sale of model rockets.

C.21:1C-5 Violation; penalty.

5. A person who violates any of the provisions of this act shall be fined $100.00 which shall be collected in a civil action by a summary proceeding under the "penalty enforcement law" (N.J.S.2A:58-1 et seq.).

C.21:1C-6 Rules, regulations.

6. The Commissioner of the Department of Labor shall establish rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) which shall substantially comply with the NFPA 1122 Code for Unmanned Rockets of the National Fire

Protection Association. The rules and regulations shall include, but need not be limited to, the procedures for obtaining the permit specified in subsection d. of section 4 of this act, the procedures to be followed for the permitted use of model rockets, and the acceptable design, weight, and power of model rockets.

7. This act shall take effect on the 180th day after enactment, but sections 2 and 6 shall take effect immediately.

Approved January 9, 1992.

CHAPTER 355

AN ACT concerning negotiable instruments under the Uniform Commercial Code and amending N.J.S.12A:3-106.

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

1. N.J.S.12A:3-106 is amended to read as follows:

Sum certain.

12A:3-106. Sum certain.

(1) The sum payable is a sum certain even though it is to be paid

(a) with stated interest, a stated rate of interest or by stated installments; or

(b) with stated different rates of interest before and after default or a specified date; or

(c) with a stated discount or addition if paid before or after the date fixed for payment; or

(d) with exchange or less exchange, whether at a fixed rate or at the current rate; or

(e) with costs of collection or an attorney's fee or both upon default.

(2) Nothing in this section shall validate any term which is otherwise illegal.

(3) A rate of interest that cannot be calculated by looking only to the instrument is "a stated rate of interest" in subsection (1) of this section if the rate is readily ascertainable by a reference in the instrument to a published statue, regulation, rule of court, generally

accepted commercial or financial index, compendium of interest rates, or announced or established rate of a named financial institution.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 356

AN ACT concerning the length of certain 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 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. Duration of certain contracts. 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 garbage and refuse, and the barging and disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The recycling of solid waste, including the collection 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 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 Division of Energy Planning and Conservation of the Board of Public Utilities, 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 facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

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

lection, 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 service 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.

All multi-year 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, contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

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

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 357

AN ACT providing for the interstate recovery of overpaid unemployment benefits and amending R.S.43:21-16.

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

1. R.S.43:21-16 is amended to read as follows:

Unemployment compensation offenses and penalties.

43:21-16. (a) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase or attempts to obtain or increase any benefit or other payment under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, either for himself or for any other person, shall be liable to a fine of $20.00 for each offense, or 25% of the amount fraudulently obtained, whichever is greater, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(b) (1) An employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, or who willfully fails or refuses to furnish any reports required hereunder (except for such reports as may be required under subsection (b) of R.S.43:21-6) or to produce or permit the inspection or copying of records, as required hereunder, shall be liable to a fine of $100.00, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the

Department of Labor of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense. Any penalties imposed by this paragraph shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) Any employing unit or any officer or agent of an employing unit or any other person who fails to submit any report required under subsection (b) of R.S.43:21-6 shall be subject to a penalty of $25.00 for the first report not submitted within 10 days after the mailing of a request for such report, and an additional $25.00 penalty may be assessed for the next 10-day period, which may elapse after the end of the initial 10-day period and before the report is filed; provided that when such report or reports are not filed within the prescribed time but it is shown to the satisfaction of the director that the failure was due to a reasonable cause, no such penalty shall be imposed. Any penalties imposed by this paragraph shall be recovered as provided in subsection (e) of R.S.43:21-14, and when recovered shall be paid to the unemployment compensation auxiliary fund for the use of said fund.

(c) Any person who shall willfully violate any provision of this chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter (R.S.43:21-1 et seq.), and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of $50.00, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each day such violation continues shall be deemed to be a separate offense.

(d) (1) When it is determined by a representative or representatives designated by the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey that any person, whether (i) by reason of the nondisclosure or misrepresentation by him or by another of a material fact (whether or not such nondisclosure or misrepresentation was known or fraudulent), or (ii) for any other reason,

has received any sum as benefits under this chapter (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was disqualified from receiving benefits, or while otherwise not entitled to receive such sum as benefits, such person, unless the director (with the concurrence of the controller) directs otherwise by regulation, shall be liable to repay those benefits in full. The sum shall be deducted from any future benefits payable to the individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by the individual to the division for the unemployment compensation fund, and such sum shall be collectible in the manner provided for by law, including, but not limited to, the filing of a certificate of debt with the Clerk of the Superior Court of New Jersey; provided, however, that, except in the event of fraud, no person shall be liable for any such refunds or deductions against future benefits unless so notified before four years have elapsed from the time the benefits in question were paid. Such person shall be promptly notified of the determination and the reasons therefor. Unless such person, within seven calendar days after the delivery of such determination, or within 10 calendar days after such notification was mailed to his last-known address, files an appeal from such determination, such determination shall be final.

(2) Interstate and cross-offset of state and federal unemployment benefits. To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor, or both, whereby:

(A) Overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 shall be recovered by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, and overpayments of unemployment benefits as determined under the unemployment compensation law of another state shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq.; and

(B) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this State under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq., or any federal program administered by this State, or under

the unemployment compensation law of another state or any federal unemployment benefit or allowance program administered by another state under an agreement with the United States Secretary of Labor, if the other state has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C. §503, and if the United States agrees, as provided in the reciprocal agreement with this State entered into under subsection (g) of 42 U.S.C §503, that overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 and overpayments as determined under the unemployment compensation law of another state which has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C. §503, shall be recovered by offset from benefits or allowances otherwise payable under a federal program administered by this State or another state under an agreement with the United States Secretary of Labor.

(e) Any employing unit, or any officer or agent of an employing unit, which officer or agent is directly or indirectly responsible for collecting, truthfully accounting for, remitting when payable any contribution, or filing or causing to be filed any report or statement required by this chapter, or employer, or person failing to remit, when payable, any employer contributions, or worker contributions (if withheld or deducted), or the amount of such worker contributions (if not withheld or deducted), or filing or causing to be filed with the controller or the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey, any false or fraudulent report or statement, and any person who aids or abets an employing unit, employer, or any person in the preparation or filing of any false or fraudulent report or statement with intent to defraud the State of New Jersey or an employment security agency of any other state or of the federal government, or with intent to evade the payment of any contributions, interest or penalties, or any part thereof, which shall be due under the provisions of this chapter (R.S.43:21-1 et seq.), shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed $1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(f) Any employing unit or any officer or agent of an employing unit or any other person who aids and abets any person to obtain

any sum of benefits under this chapter to which he is not entitled, or a larger amount as benefits than that to which he is justly entitled, shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed $1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(g) There shall be created in the Division of Unemployment and Temporary Disability Insurance of the Department of Labor of the State of New Jersey an investigative staff for the purpose of investigating violations referred to in this section and enforcing the provisions thereof.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 358

AN ACT concerning solid waste disposal facilities, and appropriating moneys from the "Resource Recovery and Solid Waste Disposal Facility Fund."

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

1. There is appropriated to the Department of Environmental Protection from the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to section 14 of the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985" (P.L.1985, c.330), the sum of $19,100,000 for the purpose of providing a zero-interest State loan to the following local government unit to finance the construction of a resource recovery facility as follows:

Pollution Control Financing Authority of
Camden County $19,100,000

2. Repayment of the loan made pursuant to this act shall be made to the "Resource Recovery and Solid Waste Disposal Facility Fund" in accordance with the terms of a written loan agreement. The form of the loan agreement shall be specified by the State Treasurer.

3. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P.L.1985, c.330.

4. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 359

AN ACT concerning birth and fetal death certificates of certain American Indians and amending R.S.26:8-49.

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

1. R.S.26:8-49 is amended to read as follows:

Corrections to birth and fetal death certificates.

26:8-49. Corrections to birth and fetal death certificates shall be signed by the person who made the original report or by either of the parents of the child or by any other person having personal knowledge of the matters sought to be corrected which other person shall state such matters on his oath.

Corrections may also be signed by any person whose birth report is in error provided substantiating documentary proof, satisfactory to the State registrar or any local registrar, is submitted therewith and noted by said State registrar or local registrar upon the written request for correction. In the case of a correction to the birth record of a member of one of the three New Jersey tribes of American Indians, the Powhatan-Renape Nation, the Ramapough Mountain Indians, or the Nanticoke-Lenni-Lenape Indians, the substantiating documentary proof may include, but shall not be limited to, an affidavit, satisfactory to the State registrar or any local registrar and signed by the chief of the tribe that according to tribal records the person whose certificate is to be

amended is a member of the tribe of the chief whose signature appears on the affidavit.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 360

AN ACT concerning the purchase of credit by certain members of the Police and Firemen's Retirement System of New Jersey and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

1. Notwithstanding the provisions of section 4 of P.L.1944, c.255 (C.43:16A-4), a member of the Police and Firemen's Retirement System of New Jersey who, on the effective date of this act, is employed as a firefighter by a city of the first class having a population of less than 300,000 according to the 1980 federal decennial census and who resigned from the position of firefighter in that city on December 29, 1971, requested reinstatement on August 28, 1972, and was reinstated by Order of the Superior Court, Law Division on May 26, 1977 may, upon filing an application with the retirement system within one year after the effective date of this act, purchase credit, at the contribution rate paid by the member at the time of his resignation in 1971 applied to his salary at the time of his resignation, for the period from August 28, 1972 to May 26, 1977. The purchase may be made in one lump sum or in regular installments, equal to at least one-half of the full normal contribution to the retirement system over a maximum period of 10 years. If the member chooses to contribute toward his service but retires prior to completing payments as agreed with the retirement system for the purchase of his service, the member will receive pro rata credit for service purchased prior to the date of retirement, but if he so elects at the time of retirement he may make the additional lump sum payment at that time necessary to provide full credit.

Within 120 days after a member applies to purchase credit pursuant to this act, the member's employer shall remit to the retirement system an amount equal to the employer's contribution to the system covering the period from August 28, 1972 to May 26, 1977 on the basis of rates established by the actuary.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 361

AN ACT concerning the experience requirements for a certificate as a certified public accountant and amending P.L.1977, c.144.

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

1. Section 8 of P.L.1977, c.144 (C.45:2B-8) is amended to read as follows:

C.45:2B-8 Application; requirements.

8. Every applicant for a certificate shall present to the board a written application for such certificate on a form to be provided by the board, together with the required fee, and satisfactory proof of the following:

a. That the applicant is at least 18 years of age;

b. That the applicant is of good moral character; and

c. That the applicant is a resident of this State or maintains an office in this State for the regular practice of public accounting or is employed in this State by a certified public accountant or firm of certified public accountants having an office in this State for the practice of public accounting;

d. That the applicant has a baccalaureate degree or its equivalent as determined by the New Jersey Department of Higher Education including such courses in accounting and related professional courses as the board may require, provided, that the board shall admit to the examination an individual who demonstrates to the board's satisfaction that he has acquired through

experience and substantial formal higher education the equivalent of such baccalaureate degree;

e. That the applicant has had in the aggregate the following experience:

(1) At least two years in public accounting work in the office of a certified public accountant or a public accountant, or a firm of certified public accountants or a firm of public accountants; or

(2) (Deleted by amendment, P.L.1991, c.361).

(3) At least four years accounting work in the employ of some state or any political subdivision thereof or of the United States; or

(4) At least four years in comparable accounting activity.

The board may accept teaching experience or graduate or other study in courses related to accounting in lieu of the required experience.

Evidence of such experience or study shall be submitted to the board in detail for its review and evaluation. Such evidence must demonstrate preparation for practice requiring the intensive, diversified application of accounting and auditing principles and procedures.

The board may accept service in the Armed Forces of the United States for experience credit on the basis of one month's credit for each six months' service, with a maximum credit of eight months.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 362

AN ACT concerning the revision and codification of municipal ordinances and amending R.S.40:49-4 and N.J.S.2A:170-81.

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

1. R.S.40:49-4 is amended to read as follows:

Revision and codification of ordinances.

40:49-4. The governing body may provide, from time to time, for the revision and codification of its ordinances. Where there are two or more bodies in any municipality having power to pass ordi-

nances, the body having charge of the finances may provide for the revision and codification of all the ordinances of the municipality.

The work of revision and codification shall be done under the direction of the municipal counsel or attorney or some other counsellor-at-law employed by the governing body, which shall have power to provide adequate compensation therefor. Nothing herein shall prevent the governing body from providing that the work of revision and codification be done, under the direction of the municipal counsel or attorney, by any person, partnership or corporation engaged in the business of codifying and revising municipal ordinances. In case the work is done by the counsel or attorney of the municipality, the governing body of the municipality may compensate the counsel or attorney for such work in addition to any salary paid. Such revision and codification of the ordinances when completed shall be submitted to each municipal body having power to pass ordinances. Each such body shall consider the same and make such changes in such revision and codification of its own ordinances, as it shall deem proper, and may then accept and adopt the same.

All the provisions of this chapter relating to the adoption, approval and advertising of ordinances, shall apply to the ordinance adopting such compilation and revision, but it shall not be necessary to publish said revised and compiled ordinances prior to or after their adoption as herein provided, or to set forth the same at length in the ordinance by which they are adopted: provided, that such compilation and revision of ordinances is so described in said adopting ordinance as clearly to identify it and the effect of proposed changes be fully explained, and it is stated in said adopting ordinance that a copy of such compilation and revision has been filed in the office of the municipal clerk, there to remain for the use and examination of the public until final action is taken on said adopting ordinance and thereafter while the same shall be in effect, if such ordinance shall be adopted; and provided, that said copy of said compilation and revision of ordinances shall be and remain on file accordingly.

Such ordinances, when so revised and codified and finally adopted, shall be reported by the person in charge of the revision to the body in charge of the finances, which shall order the same, or so much thereof as are of a general nature to be published in book form, and when so published and certified to by the seal of the municipality, shall be received in all courts of this State as evidence of the ordinances contained in such compilation and revision as fully as if

the original ordinances were produced. Printed copies of such ordinances as so revised and codified shall be made available to citizens.

Nothing herein shall operate to repeal any ordinances not included in such revision and codification, except by necessary implication, or those expressly repealed. The governing body may provide for the printing and distribution or sale of its ordinances in book form.

There may be included in any printed book of ordinances the charter of the municipality or such of the general laws of the State relating to the municipality as the governing body may direct to be included therein.

2. N.J.S.2A:170-81 is amended to read as follows:

Businesses and practices excepted.

2A:170-81. The provisions of this article shall not apply to:

a. Any person, partnership or corporation lawfully engaged in the business of searching or insuring titles to real estate, in so far as may relate to the rendering of legal advice or to the preparation and execution of conveyances or other instruments connected with or incidental to the guaranteeing or searching of titles to real estate either by such person, partnership or corporation, or his or its employees; or

b. Any person or corporation lawfully exercising trust functions, whether as trustee, executor, administrator, guardian, assignee, receiver or otherwise, in so far as may relate to conveyances or other instruments, excepting wills, connected with or incidental to the creation, execution or discharge of trust functions; or

c. Any person, partnership or corporation engaged in the leasing, sale or exchange of real or personal property, or in the loaning of money on mortgages on real or personal property, in so far as may relate to legal documents incidental to any lease, mortgage, sale or exchange; or

d. The drawing of deeds, bonds, mortgages, leases, releases, agreements or assignments by a licensed real estate broker or any one employed by him; or

e. Any corporation which, prior to July 4, 1924, was engaged in the business of drawing and filing certificates of incorporation or amendments thereto, the drawing of bylaws, and generally the superintending and directing of the proceedings necessary to incorporate and form corporations, in so far as these enumerated powers or businesses are concerned; or

f. Any person or corporation furnishing to any person lawfully engaged in the practice of law such information or such clerical assistance in and about his professional work as, except

for the provisions of this article, may be lawful, but the lawyer receiving such information or service shall at all times maintain full professional and direct responsibility to his client for the information and service so rendered;

g. Any corporation incorporated pursuant to "The Professional Service Corporation Act," approved December 16, 1969, (P.L.1969, c.232) (C.14A:17-1 et seq.), the shareholders of which are licensed to practice law in this State and which is incorporated for the specific purpose of the practice of law; or

h. Any person, partnership or corporation engaged in the business of codifying and revising municipal ordinances, in so far as may relate to the rendering of legal advice or to the preparation and execution of such ordinances or other instruments connected with or incidental to such codification and revision.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 363

AN ACT concerning county tax administrators and amending R.S.54:3-7 and R.S.54:3-9.

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

1. R.S.54:3-7 is amended to read as follows:

County tax administrator.

54:3-7. a. Each county board shall appoint a county tax administrator, who shall hold office for a term of three years, and who shall, subject to the personnel policies adopted by the governing body of the county, appoint such clerical assistants as may be necessary.

b. After the effective date of this 1979 amendatory and supplementary act, P.L.1979, c.499, any person holding the office of county tax administrator shall devote full time to his duties; provided, however, that any person currently holding office as a county board secretary may, at the option of the appointing

authority, continue to serve on a part-time basis; provided he holds or obtains prior to July 1, 1981 a tax assessor certificate.

c. After the effective date of this 1979 amendatory and supplementary act, P.L.1979, c.499, no person shall be newly appointed as county tax administrator unless he shall hold a tax assessor certificate issued by the Director of Taxation pursuant to P.L.1967, c.44 (C.54:1-35.25 et seq.). No person shall be appointed to a first term as county tax administrator after the effective date of this 1988 amendatory and supplementary act, P.L.1988, c.96 unless the person has had four years of experience in property tax administration at the State, county or municipal level. In the first 24 months of his appointment, the appointee shall successfully complete a training program developed for tax administrators and offered by the Director of the Bureau of Government Research at Rutgers, The State University, except that, during the six month period provided for the development and approval of the tax administrator's program pursuant to this 1988 amendatory and supplementary act, a person with the requisite qualification and experience in property tax administration may be temporarily appointed county tax administrator for a period not to exceed one year.

d. If any county board secretary required to hold or obtain a tax assessor's certificate pursuant to subsection b. of this section does not submit proof thereof prior to the required date, the county tax board shall immediately declare the position vacant and notify the county governing body and the Director of Taxation of the existence of such vacancy. The county tax board shall then appoint a county tax administrator subject to the provisions of subsection c. of this section.

2. R.S.54:3-9 is amended to read as follows:

Tenure.

54:3-9. Each county tax administrator hereafter appointed who shall have received two consecutive appointments for full terms as county tax administrator, and each county tax administrator serving a full term as secretary on the effective date of this amendatory and supplementary act who shall thereafter be appointed to another consecutive full term as county tax administrator, and each county tax administrator who has heretofore acquired tenure as secretary pursuant to this section shall hold office as county tax administrator during good behavior and efficiency, and shall not be removed for political reasons or for any cause other than

incapacity, misconduct, or disobedience of just rules or regulations established by the Director of the Division of Taxation.

For the purposes of this section any person holding the position of county board secretary on the effective date hereof shall be considered to be serving a full term as secretary if he was appointed to serve a full term of three years or five years, as the case may be, or to serve more than two years of an unexpired term.

3. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 364

AN ACT concerning the priority of certain mortgage loans and amending P.L.1985, c.353.

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

1. Section 2 of P.L.1985, c.353 (C.46:9-8.2) is amended to read as follows:

C.46:9-8.2 Priority preserved.

2. Notwithstanding any other law to the contrary, the priority of the lien of a mortgage loan which has undergone a modification, as defined by this act, shall relate back to and remain as it was at the time of recording of the original mortgage as if the modification was included in the original mortgage or as if the modification occurred at the time of recording of the original mortgage. The priority granted by this section shall not apply to any balance due in excess of the maximum specified principal amount which is secured by the mortgage, plus accrued interest, payments for taxes and insurance, and other payments made by the mortgagee pursuant to the terms of the mortgage.

2. This act shall take effect immediately and shall apply to any modification of a mortgage loan made on or after the effective date.

Approved January 9, 1992.

CHAPTER 365

AN ACT concerning oaths of office in certain circumstances and amending R.S.41:2-10.

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

1. R.S.41:2-10 is amended to read as follows:

Oaths of office; administration.

41:2-10. The Chief Justice of the Supreme Court, any associate justice thereof, any judge of the Superior Court or judge of the tax court may administer the oaths of office and of allegiance to any person appointed to the office of Clerk of the Supreme Court, Clerk of the Superior Court, Secretary of State or Attorney General, and the aforesaid justices and judges and the Governor and members of the Legislature may administer the oaths of office and of allegiance to any person elected or appointed to any other elective or appointive office as to which no other provision is made by law.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 366

AN ACT concerning public utility poles and supplementing chapter 3 of Title 48 of the Revised Statutes.

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

C.48:3-17a Public utility pole placement; municipal consent required.

1. After the effective date of this act, before a public utility places a pole, used for the supplying and distributing of electricity for light, heat or power, or for the furnishing of telegraph, telephone or other telecommunications service, on a public right of way on which the predominant method of lighting is gas lighting, a public utility shall, in addition to any other requirements of law, first acquire the consent of the governing body of the munic-

ipality in which the public right of way is located. For purposes of this act, "pole" means, in addition to its commonly accepted meaning, any wires or cable connected thereto, and any replacements therefor which are similar in construction and use.

2. This act shall take effect on the 30th day after enactment.

Approved January 9, 1992.

CHAPTER 367

AN ACT concerning first aid volunteers, designating the second week of May as "First Aid Week" and establishing an annual award in that week.

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

C.36:2-26 "First Aid Week" designated; annual award established.

1. a. The second week of May in each year shall be designated as "First Aid Week" in the State of New Jersey in recognition of services rendered by first aid volunteers.

b. Each year during the second week of May designated as "First Aid Week," an award for First Aid Volunteer of the Year shall be presented by the Governor, for the individual's dedication to service and volunteer assistance.

c. Nominations for the award shall be submitted by the president of any county or municipal first aid, rescue, or emergency squad in the State at any time during the year to the Governor, with a written statement setting forth the reasons for the individual's nomination.

As used in this act, "first aid, rescue, or emergency squad" means any duly incorporated first aid and emergency or volunteer ambulance or rescue squad association providing volunteer public first aid, ambulance or rescue service in a given area.

d. From the nominations submitted, the Governor shall select one recipient. The award shall be presented by the Governor in a public ceremony on a day during the second week of May known as "First Aid Week."

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 368

AN ACT concerning 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 5 of P.L.1971, c.198 (C.40A:11-5) is amended to read as follows:

C.40A:11-5 Exceptions.

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of this act may be made, negotiated or awarded by the governing body without public advertising for bids and bidding therefor if:

(1) The subject matter thereof consists of:

(a)(i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, where possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1)(a)(i) of this section, a brief notice of the award of such contract;

(b) The doing of any work by employees of the contracting unit;

(c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(d) The furnishing of a tax map or maps for the contracting party;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities or the U.S. Federal Energy Regulatory Commission or its successor, in accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(j) The publishing of legal notices in newspapers as required by law;

(k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;

(l) Election expenses;

(m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(n) The doing of any work by handicapped persons employed by a sheltered workshop;

(o) The provision of any service or the furnishing of materials including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;

(p) Homemaker--home health services performed by voluntary, nonprofit agencies;

(q) The purchase of materials and services for a law library established pursuant to R.S.40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;

(r) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act" (P.L.1975, c.217; C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) Emergency medical services provided by a hospital to the residents of a municipality or county, provided that: (a) such exception be allowed only after the governing body determines that the emergency services are available only from one provider; and (b) if the contract is awarded without advertising for bids or bidding the governing body shall in each instance state supporting reasons for its action in a resolution awarding the contract and cause to be printed once in a newspaper authorized by law to publish its legal advertisements a brief notice stating the nature, duration, service, and amount of the contract; and (c) the contract shall be kept on file for public inspection in the office of the clerk of the municipality;

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusionary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provision of the "Local Public Contracts Law" and without regard for the value of the contract therefor. Each of the aforementioned means of contracting shall be subject to any regulations adopted by the Commissioner of Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47);

(v) The purchase of steam or electricity from, or the rendering of services directly related to the purchase of such steam or electricity from a qualifying small power production facility or a qualifying cogeneration facility as defined pursuant to 16 U.S.C. §796;

(w) The purchase of electricity or administrative or dispatching services directly related to the transmission of such purchased electricity by a contracting unit engaged in the generation of electricity; or

(x) The printing of municipal ordinances or other services necessarily incurred in connection with the revision and codification of municipal ordinances.

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof and any other state or subdivision thereof.

(3) The contracting agent has advertised for bids pursuant to section 4 on two occasions and (a) has received no bids on both occasions in response to its advertisement, or (b) the governing body has rejected such bids on two occasions because the contracting agent has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract or agreement may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract or agreement; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent materials or supplies, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of this act; and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of this act, shall be stated in the resolution awarding such contract or agreement; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible supplier, and is a reasonable price for such work, materials, supplies or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

2. This act shall take effect immediately.

Approved January 9, 1992.

CHAPTER 369

AN ACT concerning certain insurable interests, supplementing chapter 24 of Title 17B of the New Jersey Statutes and repealing N.J.S.17B:24-1.

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

C.17B:24-1.1 Insurable interests.

1. a. For the purpose of life insurance or health insurance:

(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) pursu-

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ant to any contractual arrangement with any shareholder concerning the reacquisition of shares owned by him at the time of his death or disability, on the life or physical or mental ability of that shareholder for the purpose of carrying out that contractual arrangement; or (c) pursuant to any contract obligating the corporation as part of compensation arrangements or pursuant to a contract obligating the corporation as guarantor or surety, on the life of the principal obligor. The trustee of a trust established by a corporation providing 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 non-profit entity qualified pursuant to section 501 (c) (3) of the Internal Revenue Code of 1986 (26 U.S.C. §501(c)(3)), or a charitable or government entity has an insurable interest in the life or physical or mental ability of its directors, officers, employees, supporters 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 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 beneficiary of the policy. The trustee of a trust established by a non-profit entity qualified pursuant to section 501 (c) (3) of the Internal Revenue Code of 1986 (26 U.S.C. §501(c)(3)), or a charitable or government entity providing 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 or blanket insurance.

Repealer.

2. N.J.S.17B:24-1 is repealed.

3. This act shall take effect immediately and shall apply to policies of life or health insurance in force on or after that date.

Approved January 9, 1992.

CHAPTER 370

AN ACT concerning the sale of alcoholic beverages and amending P.L.1971, c.184.

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

1. Section 1 of P.L.1971, c.184 (C.33:1-40.3) is amended to read as follows:

C.33:1-40.3 Sale of wine and malt alcoholic beverages in original containers.

1. Except in a city of the first class, whenever the sale of alcoholic beverages for consumption on the premises and off the premises or either thereof is authorized in any municipality by ordinance or rule or regulation of the Division of Alcoholic Beverage Control, by the holder of a retail consumption or retail distribution license, such ordinance or rule shall authorize the sale of wine and malt alcoholic beverages in original bottle or can containers for consumption off the premises on the same days and during the same hours as the sale of alcoholic beverages for consumption on the premises is permitted and authorized in the

municipality. If a municipality has no ordinance or local law that authorizes the sale of alcoholic beverages for consumption on the premises, then the municipality may by ordinance authorize the sale of wine and malt alcoholic beverages in original bottle or can containers by retail distribution licensees any time between the hours of 12:30 p.m. and 6:30 p.m. on Sunday, in addition to such weekday hours as may be authorized by ordinance.

Notwithstanding the provisions of this section or any other law to the contrary, a city of the first class which prohibits the Sunday sale of alcoholic beverages for consumption on the premises shall not permit the sale on Sunday of wine and malt alcoholic beverages in original bottle or can containers for consumption off the premises.

All parts of ordinances and regulations of the Director of the Division of Alcoholic Beverage Control inconsistent with the provisions of this act are superseded to the extent of such inconsistency.

2. This act shall take effect immediately.

Approved January 10, 1992.

CHAPTER 371

AN ACT to provide Medicaid coverage for mammograms and amending P.L.1968, c.413.

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

1. 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.

2. This act shall take effect on the 90th day after enactment.

Approved January 10, 1992.

CHAPTER 372

AN ACT concerning liability for the removal of certain discharged 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 7 of P.L.1976, c.141 (C.58:10-23.11f) is amended to read as follows:

C.58:10-23.11f Cleanup and removal or hazardous substances.

7. a. (1) Whenever any hazardous substance is discharged, the department may, in its discretion, act to clean up and remove or arrange for the cleanup and removal of such discharge or may direct the discharger to clean up and remove, or arrange for the cleanup and removal of, such discharge. If the discharge occurs at any hazardous or solid waste disposal facility, the department may order the facility closed for the duration of the cleanup and removal operations. The department may monitor the discharger's compliance with any such directive. Any discharger who fails to

comply with such a directive shall be liable to the department in an amount equal to three times the cost of such cleanup and removal, and shall be subject to the revocation or suspension of any license or permit he holds authorizing him to operate a hazardous or solid waste disposal facility.

(2) Whenever one or more dischargers or persons cleans up and removes a discharge of a hazardous substance, those dischargers and persons shall have a right of contribution against all other dischargers and persons in any way responsible for a discharged hazardous substance who are liable for the cost of the cleanup and removal of that discharge of a hazardous substance. In an action for contribution, the contribution plaintiffs need prove only that a discharge occurred for which the contribution defendant or defendants are liable pursuant to the provisions of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and the contribution defendant shall have only the defenses to liability available to parties pursuant to subsection d. of section 8 of P.L.1976, c.141 (C.58:10-23.11g). In resolving contribution claims, a court may allocate the costs of cleanup and removal among liable parties using such equitable factors as the court determines are appropriate.

(3) The department may, in its sole discretion, when it will expedite the cleanup and removal of any discharged hazardous substance, and when the department determines that it is in the public interest, authorize parties who have entered into an agreement with the department to clean up and remove or arrange for the cleanup and removal of a hazardous substance and who seek contribution, to collect treble damages from any contribution defendant who has failed or refused to comply with any directive, was named on the directive, and who is subject to contribution pursuant to this subsection. The treble damages shall be based on the amount of contribution owed by a contribution defendant, which share of contribution shall be determined by the court. A contribution defendant from whom treble damages is sought in a contribution action shall not be assessed treble damages by any court where the contribution defendant, for good cause shown, failed or refused to enter the settlement agreement with the department or with the contribution plaintiffs or where principles of fundamental fairness will be violated. One third of an award of treble damages in a contribution action pursuant to this paragraph shall be paid to the department, which sum shall be deposited in the New Jersey Spill Compensation Fund. The other two thirds of the treble damages award shall be shared by the contribution plaintiffs in the propor-

tion of the responsibility for the cost of the cleanup and removal that the contribution plaintiffs have agreed to with the department or in an amount as has been agreed to by those parties. Nothing in this subsection affects the rights of any party to seek contribution pursuant to any other statute or under common law.

Cleanup and removal of hazardous substances and actions to minimize damage from discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for cleanup and removal of oil and hazardous substances established pursuant to section 311(c)(2) of the federal Water Pollution Control Act Amendments of 1972 (Pub.L.92-500, 33 U.S.C.§ 1251 et seq.).

Whenever the department acts to clean up and remove a discharge or contracts to secure prospective cleanup and removal services, it is authorized to draw upon the money available in the fund. Such money shall be used to pay promptly for all cleanup and removal costs incurred by the department in cleaning up, in removing or in minimizing damage caused by such discharge.

The department may agree to defend and indemnify a contractor against claims, causes of action, demands, costs, or judgments made against a contractor arising as a direct result of the contractor's provision of hazardous substance cleanup or removal, or mitigation services pursuant to a contract with the department. This legal defense and indemnification shall not apply to claims, causes of action, demands, costs, or judgments which are proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct, or to claims for punitive or exemplary damage. The department shall agree to provide legal defense and indemnification to a contractor only if it determines that adequate environmental liability insurance is not available or not available at a reasonable cost to the contractor. The department shall agree to provide legal defense and indemnification to a contractor pursuant to terms and limitations which it deems appropriate. Any agreement by the department to defend or indemnify a contractor shall not bar the department from the exercise of any available legal remedies for the enforcement of the contract between the department and the contractor, the recovery of damages to which the department may be entitled resulting from a contractor's failure to perform the contract, or for the recovery of funds expended for the defense of a contractor if the defense was undertaken in response to a claim or cause of action brought against the contractor which is proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort,

bad faith, or criminal misconduct. No person other than a contractor shall have the right to enforce any agreement for defense and indemnification between a contractor and the department. The department shall not enter into an agreement to provide legal defense and indemnification to a contractor after January 1, 1990. For the purposes of this subsection, "contractor" means a person providing services to mitigate or clean up and remove a discharge or release or threatened discharge or release of a hazardous substance in this State pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.) or the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C.§ 9601 et seq.).

Nothing in this section is intended to preclude removal and cleanup operations by any person threatened by such discharges, provided such persons coordinate and obtain approval for such actions with ongoing State or federal operations. No action taken by any person to contain or clean up and remove a discharge shall be construed as an admission of liability for said discharge. No person who renders assistance in containing or cleaning up and removing a discharge shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance, except for acts or omissions of gross negligence or willful misconduct. In the course of cleanup or removal operations, no person shall discharge any detergent into the waters of this State without prior authorization of the commissioner.

b. Notwithstanding any other provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), the department, subject to the approval of the administrator with regard to the availability of funds therefor, or a local unit as a part of an emergency response action and with the approval of the department, may clean up and remove or arrange for the cleanup and removal of any hazardous substance which:

(1) Has not been discharged from a grounded or disabled vessel, if the department determines that such cleanup and removal is necessary to prevent an imminent discharge of such hazardous substance; or

(2) Has not been discharged, if the department determines that such substance is not satisfactorily stored or contained and said substance possesses any one or more of the following characteristics:

(a) Explosiveness;

(b) High flammability;

(c) Radioactivity;

(d) Chemical properties which in combination with any discharged hazardous substance at the same storage facility would

create a substantial risk of imminent damage to public health or safety or an imminent and severe damage to the environment;

(e) Is stored in a container from which its discharge is imminent as a result of contact with a hazardous substance which has already been discharged and such additional discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(f) High toxicity and is stored or being transported in a container or motor vehicle, truck, rail car or other mechanized conveyance from which its discharge is imminent as a result of the significant deterioration or the precarious location of the container, motor vehicle, truck, rail car or other mechanized conveyance, and such discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(3) Has been discharged prior to the effective date of P.L.1976, c.141.

c. If and to the extent that he determines that funds are available, the administrator shall approve and make payments for any cleanup and removal costs incurred by the department for the cleanup and removal of a hazardous substance other than petroleum as authorized by subsection b. of this section; provided that in determining the availability of funds, the administrator shall not include as available funds revenues realized or to be realized from the tax on the transfer of petroleum, to the extent that such revenues result from a tax levied at a rate in excess of $0.01 per barrel, pursuant to subsection b. of section 9 of P.L.1976, c.141 (C.58:10-23.11h), unless the administrator determines that the sum of claims paid by the fund on behalf of petroleum discharges or cleanup and removals plus pending reasonable claims against the fund on behalf of petroleum discharges or cleanup and removals is greater than 30% of the sum of all claims paid by the fund plus all pending reasonable claims against the fund.

d. The administrator may only approve and make payments for any cleanup and removal costs incurred by the department for the cleanup and removal of a hazardous substance discharged prior to the effective date of P.L.1976, c.141, pursuant to subsection b. of this section, if, and to the extent that, he determines that adequate funds from another source are not or will not be available; and provided further, with regard to the cleanup and removal costs incurred for discharges which occurred prior to the effective date of P.L.1976, c.141, the administrator may not during any one-year

period pay more than $18,000,000 in total or more than $3,000,000 for any discharge or related set or series of discharges.

e. Notwithstanding any other provisions of P.L.1976, c.141, the administrator, after considering, among any other relevant factors, the department's priorities for spending funds pursuant to P.L.1976, c.141, and within the limits of available funds, shall make payments for the restoration or replacement of, or connection to an alternative water supply for, any private residential well destroyed, contaminated, or impaired as a result of a discharge prior to the effective date of P.L.1976, c.141; provided, however, total payments for said purpose shall not exceed $500,000 for the period between the effective date of this subsection e. and January 1, 1983, and in any calendar year thereafter.

f. Any expenditures made by the administrator pursuant to this act shall constitute, in each instance, a debt of the discharger to the fund. The debt shall constitute a lien on all property owned by the discharger when a notice of lien, incorporating a description of the property of the discharger subject to the cleanup and removal and an identification of the amount of cleanup, removal and related costs expended from the fund, is duly filed with the clerk of the Superior Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the discharger and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the revenues and all real and personal property of the discharger, whether or not the discharger is insolvent.

The notice of lien filed pursuant to this subsection which affects the property of a discharger subject to the cleanup and removal of a discharge shall create a lien with priority over all other claims or liens which are or have been filed against the property, except if the property comprises six dwelling units or less and is used exclusively for residential purposes, this notice of lien shall not affect any valid lien, right or interest in the property filed in accordance with established procedure prior to the filing of this notice of lien. The notice of lien filed pursuant to this subsection which affects any property of a discharger, other than the property subject to the cleanup and removal, shall have priority from the day of the filing of the notice of the lien over all other claims and liens filed against the property, but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this subsection.

g. In the event a vessel discharges a hazardous substance into the waters of the State, the cleanup and removal and related costs resulting from that discharge that constitute a maritime lien on the discharging vessel pursuant to 33 U.S.C. § 1321 or any other law, may be recovered by the Department of Environmental Protection in an action in rem brought in the district court of the United States. An impoundment of a vessel resulting from this action shall continue until:

(1) the claim against the owner or operator of the vessel for the cleanup and removal and related costs of the discharge is satisfied;

(2) the owner or operator of the vessel, or a representative of the owner or operator, provides evidence of financial responsibility as provided in section 2 of P.L.1991, c.58 (C.58:10-23.11g2) and satisfactorily guarantees that these costs will be paid; or

(3) the impoundment is otherwise vacated by a court order. The remedy provided in this subsection is in addition to any other remedy or enforcement power that the department may have under any other law.

Any action brought by the State pursuant to this subsection and any impoundment of a vessel resulting therefrom shall not subject the State to be in any way liable for a subsequent or continued discharge of a hazardous substance from that vessel.

2. This act shall take effect immediately.

Approved January 10, 1992.

CHAPTER 373

AN ACT concerning response action contractor indemnification and liability, limiting the liability of sureties for certain hazardous waste service contracts, amending P.L.1985, c.461, amending and supplementing P.L.1976, c.141, and repealing section 5 of P.L.1986, c.59.

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

C.58:10-23.11f8 Short title.

1. This act shall be known and may be cited as the "Hazardous Substance Response Action Contractors Indemnification Act."

C.58:10-23.11f9 Findings and declarations.

2. The Legislature finds and declares that it is the public policy of this State to safely and expeditiously handle, treat, remove

and dispose of hazardous substances released or spilled to the environment or at hazardous waste sites where no responsible party has been identified or has undertaken a cleanup; that the availability of an adequate supply of private contractors for performing the design, engineering and construction of cleanup or mitigation of sites contaminated by hazardous substances is essential for assuring both the expeditious cleanup of such sites and a competitive marketplace for contractor services; that hazardous substance response action contractors continue to experience considerable difficulties in obtaining environmental liability insurance at affordable prices; that even when environmental liability insurance coverage is available it is being written on a claims-made basis for limited durations; and that the interests of the State would be promoted by permitting the Department of Environmental Protection to offer indemnification to cleanup contractors where necessary to solicit qualified contractors.

C.58:10-23.11f10 Definitions.

3. As used in this act:

"Department" means the Department of Environmental Protection.

"Division" means the Division of Purchase and Property within the Department of the Treasury.

"Engineering services" means services or creative work such as consultation, investigation, the evaluation, planning, and design of engineering works and systems, planning the use of land and water, engineering studies, and the administration of construction for the purpose of determining compliance with drawings and specifications, the adequate performance of which requires engineering education, training, and experience, and the application of special knowledge of the mathematical, physical, and engineering sciences.

"Hazardous substance" means a hazardous substance as defined in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

"Remediation" means the cleanup, removal, mitigation, control or management of a discharge of a hazardous substance.

"Response action contract" or "contract" means a contract entered into by a response action contractor with the department, or any other agency of the State, or with the division on behalf of the department to provide services or work for, or relating to, the remediation, or attempted remediation, of a hazardous substance, or to prevent or mitigate damages to the public health, safety, or welfare, including damages to public or private property, pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.), which services or

work shall include evaluation, planning, engineering, surveying, design, construction, or other related services or work.

"Response action contractor" or "contractor" means a person, including an employee or subcontractor of a person, who enters into a response action contract, and, for the purposes of indemnification by the department, a surety that issues a bid, performance, or payment bond for the contractor on the response action contract, and who begins activities to meet the obligations under such bond but only in connection with such activities or obligations.

C.58:10.23.11f11 Indemnification of the contractor; conditions.

4. As part of a response action contract awarded by or on behalf of the department, the department may agree to defend and indemnify the contractor against claims and judgments for death or bodily injury to persons or loss and damage to property resulting from the contamination of the environment by hazardous substances as a direct consequence of the performance of the response action contract. This provision applies only to contracts wholly funded with State monies, including monies in the New Jersey Spill Compensation Fund established pursuant to section 10 of P.L.1976, c.141 (C.58:10-23.11i).

The department may determine to offer indemnification when it is deemed necessary to solicit qualified contractors and to promote adequate competition among qualified bidders. The department may offer indemnification of up to $25 million per occurrence and $50 million per contract as it deems necessary to solicit qualified contractors, depending on the nature, risk and size of the job. Any indemnification offered by the department shall be subject to the exemptions and deductible limits established herein and to terms and conditions established by the department with the advice of the Attorney General.

As part of a bidding process, the department may give preference to the extent a bidder is covered by an occurrence based policy of environmental impairment liability insurance. Any such preference shall be based on determinations articulated in the bid documents as to the relative value and cost to the State of insurance and indemnification.

Nothing in this act shall be construed to: (1) limit the right of an eligible claimant to pursue any remedy available under statutory or common law against a discharger or person in any way responsible for a discharge pursuant to subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g.), for any claim amount in

excess of the liability limits established pursuant to this act; or (2) authorize indemnification of a response action contractor for a claim by a person in the employment of the contractor, including any subcontractor engaged by the contractor, or any employee thereof.

Nothing in this act shall be construed to authorize indemnification of a discharger or person in any way responsible for a discharge or of a response action contractor engaged in a remediation action on behalf of a discharger or person in any way responsible for a discharge whether or not the remediation action is funded in part by the State.

C.58:10-23.11f12 Indemnification agreements.

5. a. An indemnification agreement entered into between the State and a response action contractor shall specify and allocate the responsibility of the parties for the payment of claims or judgments covered by the indemnification agreement as follows:

(1) the response action contractor shall be responsible, for all claims or judgments resulting from a single occurrence, for a total payment of an amount equal to either (a) 30% of the amount of the response action contract or (b) $1,500,000, whichever is less;

(2) the response action contractor shall be responsible, for all claims or judgments resulting from a single occurrence, for a total payment in an amount equal to 10% of either (a) the amount of the total claims or judgments that are in excess of the amount for which the response action contractor is responsible pursuant to paragraph (1) of this subsection, or (b) the amount of indemnification for such occurrence set forth in the indemnification agreement that is in excess of the amount for which the response action contractor is responsible pursuant to paragraph (1) of this subsection, whichever is less;

(3) the State shall be responsible for payment of one or more claims or judgments only up to the amount of indemnification set forth for such occurrence in the indemnification agreement, less the amounts for which the response action contractor is responsible pursuant to paragraphs (1) and (2) of this subsection;

(4) a response action contractor shall be responsible for the payment of a claim or judgment covered by an indemnification agreement only to the extent of the amounts for which the response action contractor is responsible pursuant to paragraphs (1) and (2) of this subsection. A response action contractor shall not be responsible for payment of any part of a claim or judgment arising from performance under a response action contract, cov-

ered by an indemnification agreement, where the amount of available indemnification for those claims or judgments has been exhausted. Nothing in this subsection shall be construed to limit the liability or responsibility of a response action contractor for payment of any claim or judgment except where the response action contractor has entered into an indemnification agreement with the State pursuant to this act and to the extent provided in that agreement.

The allocations and limits for the payment of claims or judgments for the State and response action contractors pursuant to this subsection do not apply to claims or judgments covered by the provisions of subsection c. of this section.

b. The department is authorized to lower, on a contract-by-contract or other basis, the amount for which the response action contractor shall be responsible, pursuant to subsection a. of this section, for all claims or judgments covered by the indemnification agreement. The department may lower the amount for which the response action contractor shall be responsible for specific kinds of services in a contract, including, but not limited to engineering services, or for all of the services provided in a contract. The department shall make the determination to lower the amount for which the response action contractor shall be responsible based on the availability of environmental liability insurance for contractors in the private market, on the number and quality of bidders, or on other factors the department deems relevant.

c. Legal defense and indemnification shall not apply to (1) claims that are found to have arisen from actions involving gross negligence, willful misconduct, fraud, intentional tort, bad faith, intentional breach of contract, or criminal misconduct by the contractor, (2) claims or judgments for punitive or exemplary damages, or (3) claims involving actions outside the scope of the response action contract.

d. Legal defense and indemnification provided to a contractor shall be on such terms and conditions as shall be prescribed by the department with the advice of the Attorney General consistent with the provisions of this act.

e. Legal defense and indemnification of a contractor pursuant to this section or section 9 of P.L.1991, c.373 (C.58:10-23.11f16), shall not bar the State from exercising any available legal remedies for the enforcement of a contract between, or on the behalf of, the department or other contracting agency and the contractor, the recovery of damages to which the department or agency may be entitled as a result of a contractor's failure to perform the con-

tract, or for the recovery by the Attorney General of funds expended for the defense or indemnification of a contractor if the defense was undertaken in response to a claim brought against the contractor that is found to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, intentional breach of contract, or criminal misconduct.

f. No person other than a contractor shall have the right to enforce a right of legal defense and indemnification pursuant to this section.

C.58:10-23.11f13 Initiation of defense and indemnification, cooperation.

6. A contractor shall not, except for good and substantial cause, be entitled to legal defense and indemnification by the Attorney General pursuant to this act unless within 10 calendar days of receipt of any summons, complaint, process, notice, demand or pleading subject to legal defense and indemnification, the contractor delivers, by certified mail or personal delivery, the original or a copy of the summons, complaint, process, notice, demand or pleading to the department or other contracting agency, and the Attorney General. Delivery of notice shall constitute an agreement by the contractor that the Attorney General shall be responsible for the conduct of the defense for the claim amount in excess of the contractor's deductible in a manner that the Attorney General deems to be in the best interests of the contractor and the State, including authority to enter into a negotiated settlement of that excess amount. The contractor shall cooperate fully with the Attorney General's defense.

The Attorney General shall submit a certified voucher to the State for payment of the amount of the judgment or settlement and court costs.

No settlement shall be entered into by a contractor or his authorized representative if the amount of the settlement exceeds the contractor's deductible unless the settlement is approved by the Attorney General. If the contractor enters into such a settlement without the Attorney General's approval, this shall be deemed a waiver by the contractor of any right to indemnification for the settlement.

C.58:10-23.11f14 Notice of claim, periods of limitations.

7. a. Notwithstanding the provision of any other law to the contrary, a person shall be barred from recovering against a response action contractor indemnified pursuant to P.L.1991, c.373 (C.58:10-23.11f8 et al.) for injury to persons, or damage to, or loss of, property if:

(1) the claimant fails to file a notice of claim with the contractor within 90 days of accrual of the claim, except that the

Superior Court may permit a claimant to file a notice at any time within one year of accrual of the claim provided that the contractor and the State are not substantially prejudiced thereby, and provided further that the claimant shows sufficient reasons for his failure to file a notice of claim within the 90 days;

(2) two years have elapsed since accrual of the claim and the claimant has failed to file an action therefor; or

(3) the claimant or his authorized representative entered into a settlement with respect to the claim.

b. The provisions of this section shall not apply to a claim not subject to legal defense and indemnification pursuant to P.L.1991, c.373 (C.58:10-23.11f8 et al.). Nothing in this section shall prohibit an infant or incompetent person from commencing an action under this act within the time limitations specified in this section, after his coming or being of full age or sane mind.

C.58:10-23.11f15 Representation other than by Attorney General; intervention.

8. a. In the event the Attorney General determines that (1) appearing and defending a contractor pursuant to P.L.1991, c.373 (C.58:10-23.11f8 et al.) involves an actual or potential conflict of interest between the State and the contractor, or (2) the act or omission giving rise to the claim is either not within the scope of the contract, or involves gross negligence, willful misconduct, fraud, intentional tort, bad faith, intentional breach of contract, or criminal misconduct by the contractor, the Attorney General shall decline in writing to appear or defend, or shall promptly withdraw as attorney for the contractor. The contractor thereupon may employ his own attorney to appear and defend against the claim.

b. If the Attorney General declines to appear and defend a contractor by reason of an actual or potential conflict of interest, the Attorney General shall authorize indemnification of the contractor for the amount of the judgment in excess of the amount of contractor's indemnification deductible and less the copayment, and reasonable legal expenses and court costs incurred by the contractor in defending against the amount of the claim or judgment in excess of the contractor's deductible.

c. If the Attorney General declines to appear and defend, or withdraws from defending, on the grounds that the act or omission giving rise to the claim or costs was not within the scope of the contract, or was the result of gross negligence, willful misconduct, fraud, intentional tort, bad faith, intentional breach of contract, or criminal misconduct on the part of the contractor, but

the court finds that the act or omission was within the scope of the contract, or was not the result of gross negligence, willful misconduct, fraud, intentional tort, bad faith, intentional breach of contract, or criminal misconduct on the part of the contractor, the Attorney General shall authorize indemnification of the contractor for the amount of the judgment in excess of the amount of the contractor's indemnification deductible, and reasonable legal expenses and court costs incurred by the contractor in defending against the amount of the claim or judgment in excess of the contractor's deductible.

d. The State shall have the right to intervene in any case that may involve State indemnification and the court shall, at the request of the State, make a finding as to whether the contractor's actions were a result of gross negligence, willful misconduct, fraud, intentional tort, bad faith, intentional breach of contract, or criminal misconduct.

C.58:10-23.11f16 Submission of judgment to Attorney General.

9. A certified copy of any judgment or settlement entered into pursuant to section 8 of P.L.1991, c.373 (C.58:10-23.11f15) shall be submitted to the Attorney General for a determination as to whether the judgment is final and subject to indemnification. If the judgment is final and subject to indemnification, the Attorney General shall submit a certified voucher to the State for payment of the amount in the manner specified in section 8.

C.58:10-23.11f17 Award for damages.

10. A judgment or settlement against a contractor, where indemnification is provided shall be subject to such applicable limitations or conditions as are set forth in N.J.S.59:9-2 through 59:9-5. In determining the amount of an award for damages to property subject to the provisions of this section, the court may reduce the amount of the award for damages to property by all or a portion of the enhancement value resulting from the remediation action taken or paid for by the State.

C.58:10-23.11f18 Subrogation; construction with other law.

11. a. The State is subrogated to any rights of a claimant paid by the State for an indemnified claim or judgment, including court and legal costs, against a discharger or person in any way responsible for a discharge pursuant to subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g).

b. Nothing in P.L.1991, c.373 (C.58:10-23.11f8 et al.) shall be construed to limit the liability of a party responsible for a discharge

for all costs recoverable pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

c. Nothing in this act shall be construed to affect any of the defenses and immunities available to the State pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., or any other provisions contained therein, for claims against the State or any of its employees.

12. Section 2 of P.L.1976, c.141 (C.58:10-23.11a) is amended to read as follows:

C.58:10-23.11a Findings and declarations.

2. The Legislature finds and declares: that New Jersey's lands and waters constitute a unique and delicately balanced resource; that the protection and preservation of these lands and waters promote the health, safety and welfare of the people of this State; that the tourist and recreation industry dependent on clean waters and beaches is vital to the economy of this State; that the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction; and that the storage and transfer of petroleum products and other hazardous substances between vessels, between facilities and vessels, and between facilities, whether onshore or offshore, is a hazardous undertaking and imposes risk of damage to persons and property within this State.

The Legislature finds and declares that the discharge of petroleum products and other hazardous substances within or outside the jurisdiction of this State constitutes a threat to the economy and environment of this State. The Legislature intends by the passage of this act to exercise the powers of this State to control the transfer and storage of hazardous substances and to provide liability for damage sustained within this State as a result of any discharge of said substances, by requiring the prompt containment and removal of such pollution and substances, and to provide a fund for swift and adequate compensation to resort businesses and other persons damaged by such discharges, and to provide for the defense and indemnification of certain persons under contract with the State for claims or actions resulting from the provision of services or work to mitigate or clean up a release or discharge of hazardous substances.

13. 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 through 58:10-23.11f18);

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 above ground 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.

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 facil-

ity, 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.

14. Section 7 of P.L.1976, c.141 (C.58:10-23.11f) is amended to read as follows:

C.58:10-23.11f Cleanup and removal of hazardous substances.

7. a. (1) Whenever any hazardous substance is discharged, the department may, in its discretion, act to clean up and remove or arrange for the cleanup and removal of such discharge or may direct the discharger to clean up and remove, or arrange for the cleanup and removal of, such discharge. If the discharge occurs at any hazardous or solid waste disposal facility, the department may order the facility closed for the duration of the cleanup and removal operations. The department may monitor the discharger's compliance with any such directive. Any discharger who fails to comply with such a directive shall be liable to the department in an amount equal to three times the cost of such cleanup and removal, and shall be subject to the revocation or suspension of any license or permit he holds authorizing him to operate a hazardous or solid waste disposal facility.

(2) Whenever one or more dischargers or persons cleans up and removes a discharge of a hazardous substance, those dischargers and persons shall have a right of contribution against all other dischargers and persons in any way responsible for a discharged hazardous substance who are liable for the cost of the cleanup and removal of that discharge of a hazardous substance. In an action for contribution, the contribution plaintiffs need prove only that a discharge occurred for which the contribution defendant or defendants are liable pursuant to the provisions of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and the contribution defendant shall have only the defenses to liability available to parties pursuant to subsection d. of section 8 of P.L.1976, c.141 (C.58:10-23.11g). In resolving contribution claims, a court may allocate the costs of cleanup and removal among liable parties using such equitable factors as the court determines are appropriate.

(3) The department may, in its sole discretion, when it will expedite the cleanup and removal of any discharged hazardous substance, and when the department determines that it is in the pub-

lic interest, authorize parties who have entered into an agreement with the department to clean up and remove or arrange for the cleanup and removal of a hazardous substance and who seek contribution, to collect treble damages from any contribution defendant who has failed or refused to comply with any directive, was named on the directive, and who is subject to contribution pursuant to this subsection. The treble damages shall be based on the amount of contribution owed by a contribution defendant, which share of contribution shall be determined by the court. A contribution defendant from whom treble damages is sought in a contribution action shall not be assessed treble damages by any court where the contribution defendant, for good cause shown, failed or refused to enter the settlement agreement with the department or with the contribution plaintiffs or where principles of fundamental fairness will be violated. One third of an award of treble damages in a contribution action pursuant to this paragraph shall be paid to the department, which sum shall be deposited in the New Jersey Spill Compensation Fund. The other two thirds of the treble damages award shall be shared by the contribution plaintiffs in the proportion of the responsibility for the cost of the cleanup and removal that the contribution plaintiffs have agreed to with the department or in an amount as has been agreed to by those parties. Nothing in this subsection affects the rights of any party to seek contribution pursuant to any other statute or under common law.

Cleanup and removal of hazardous substances and actions to minimize damage from discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for cleanup and removal of oil and hazardous substances established pursuant to section 311(c)(2) of the federal Water Pollution Control Act Amendments of 1972 (Pub.L.92-500, 33 U.S.C.§ 1251 et seq.).

Whenever the department acts to clean up and remove a discharge or contracts to secure prospective cleanup and removal services, it is authorized to draw upon the money available in the fund. Such money shall be used to pay promptly for all cleanup and removal costs incurred by the department in cleaning up, in removing or in minimizing damage caused by such discharge.

Nothing in this section is intended to preclude removal and cleanup operations by any person threatened by such discharges, provided such persons coordinate and obtain approval for such actions with ongoing State or federal operations. No action taken by any person to contain or clean up and remove a discharge shall be construed as an admission of liability for said discharge. No person who renders assistance in containing or cleaning up and removing a discharge shall be liable for any civil damages to third parties result-

ing solely from acts or omissions of such person in rendering such assistance, except for acts or omissions of gross negligence or willful misconduct. In the course of cleanup or removal operations, no person shall discharge any detergent into the waters of this State without prior authorization of the commissioner.

b. Notwithstanding any other provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), the department, subject to the approval of the administrator with regard to the availability of funds therefor, or a local unit as a part of an emergency response action and with the approval of the department, may clean up and remove or arrange for the cleanup and removal of any hazardous substance which:

(1) Has not been discharged from a grounded or disabled vessel, if the department determines that such cleanup and removal is necessary to prevent an imminent discharge of such hazardous substance; or

(2) Has not been discharged, if the department determines that such substance is not satisfactorily stored or contained and said substance possesses any one or more of the following characteristics:

(a) Explosiveness;

(b) High flammability;

(c) Radioactivity;

(d) Chemical properties which in combination with any discharged hazardous substance at the same storage facility would create a substantial risk of imminent damage to public health or safety or an imminent and severe damage to the environment;

(e) Is stored in a container from which its discharge is imminent as a result of contact with a hazardous substance which has already been discharged and such additional discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(f) High toxicity and is stored or being transported in a container or motor vehicle, truck, rail car or other mechanized conveyance from which its discharge is imminent as a result of the significant deterioration or the precarious location of the container, motor vehicle, truck, rail car or other mechanized conveyance, and such discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(3) Has been discharged prior to the effective date of P.L.1976, c.141.

c. If and to the extent that he determines that funds are available, the administrator shall approve and make payments for any cleanup and removal costs incurred by the department for the

cleanup and removal of a hazardous substance other than petroleum as authorized by subsection b. of this section; provided that in determining the availability of funds, the administrator shall not include as available funds revenues realized or to be realized from the tax on the transfer of petroleum, to the extent that such revenues result from a tax levied at a rate in excess of $0.01 per barrel, pursuant to subsection b. of section 9 of P.L.1976, c.141 (C.58:10-23.11h), unless the administrator determines that the sum of claims paid by the fund on behalf of petroleum discharges or cleanup and removals plus pending reasonable claims against the fund on behalf of petroleum discharges or cleanup and removals is greater than 30% of the sum of all claims paid by the fund plus all pending reasonable claims against the fund.

d. The administrator may only approve and make payments for any cleanup and removal costs incurred by the department for the cleanup and removal of a hazardous substance discharged prior to the effective date of P.L.1976, c.141, pursuant to subsection b. of this section, if, and to the extent that, he determines that adequate funds from another source are not or will not be available; and provided further, with regard to the cleanup and removal costs incurred for discharges which occurred prior to the effective date of P.L.1976, c.141, the administrator may not during any one-year period pay more than $18,000,000 in total or more than $3,000,000 for any discharge or related set or series of discharges.

e. Notwithstanding any other provisions of P.L.1976, c.141, the administrator, after considering, among any other relevant factors, the department's priorities for spending funds pursuant to P.L.1976, c.141, and within the limits of available funds, shall make payments for the restoration or replacement of, or connection to an alternative water supply for, any private residential well destroyed, contaminated, or impaired as a result of a discharge prior to the effective date of P.L.1976, c.141; provided, however, total payments for said purpose shall not exceed $500,000 for the period between the effective date of this subsection e. and January 1, 1983, and in any calendar year thereafter.

f. Any expenditures made by the administrator pursuant to this act shall constitute, in each instance, a debt of the discharger to the fund. The debt shall constitute a lien on all property owned by the discharger when a notice of lien, incorporating a description of the property of the discharger subject to the cleanup and removal and an identification of the amount of cleanup, removal and related costs expended from the fund, is duly filed with the clerk of the Superior

Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the discharger and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the revenues and all real and personal property of the discharger, whether or not the discharger is insolvent.

The notice of lien filed pursuant to this subsection which affects the property of a discharger subject to the cleanup and removal of a discharge shall create a lien with priority over all other claims or liens which are or have been filed against the property, except if the property comprises six dwelling units or less and is used exclusively for residential purposes, this notice of lien shall not affect any valid lien, right or interest in the property filed in accordance with established procedure prior to the filing of this notice of lien. The notice of lien filed pursuant to this subsection which affects any property of a discharger, other than the property subject to the cleanup and removal, shall have priority from the day of the filing of the notice of the lien over all other claims and liens filed against the property, but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this subsection.

g. In the event a vessel discharges a hazardous substance into the waters of the State, the cleanup and removal and related costs resulting from that discharge that constitute a maritime lien on the discharging vessel pursuant to 33 U.S.C. § 1321 or any other law, may be recovered by the Department of Environmental Protection in an action in rem brought in the district court of the United States. An impoundment of a vessel resulting from this action shall continue until:

(1) the claim against the owner or operator of the vessel for the cleanup and removal and related costs of the discharge is satisfied;

(2) the owner or operator of the vessel, or a representative of the owner or operator, provides evidence of financial responsibility as provided in section 2 of P.L.1991, c.58 (C.58:10-23.11g2) and satisfactorily guarantees that these costs will be paid; or

(3) the impoundment is otherwise vacated by a court order. The remedy provided in this subsection is in addition to any other remedy or enforcement power that the department may have under any other law.

Any action brought by the State pursuant to this subsection and any impoundment of a vessel resulting therefrom shall not subject the State to be in any way liable for a subsequent or continued discharge of a hazardous substance from that vessel.

15. 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. 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 spills of hazardous substances on the marine environment and on the development of improved cleanup and removal operations as may be appropriated by the Legislature; provided, however, that such sums shall not exceed the amount of interest which is credited to the fund;

(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 (C.58:10-23.11d1 et al.) 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 shall not exceed the amount of interest which is credited to the fund;

(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 through 58:10-23.11f18);

(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.

(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.

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.

16. Section 1 of P.L. 1985, c.461 (C.58:10-23.11g1) is amended to read as follows:

C.58:10-23.11g1 Hazardous discharge cleanup liability.

1. The provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), or any other law, rule or regulation to the contrary notwithstanding, the liability of any person performing hazardous discharge mitigation or cleanup services in accordance with procedures established pursuant to State or federal law and a surety who issues a bid, performance or payment bond for such person for such services for any injury to a person or property caused by or related to these services shall be limited to acts or omissions of the person or surety during the course of performing these services which can be shown, based on a preponderance of the evidence, to have been negligent. For the purposes of this act, the demonstration that acts or omissions of a person or surety performing mitigation or cleanup services were in accordance with generally accepted practice and state-of-the-art scientific knowledge, and utilized the best technology reasonably available to the person at the time the mitigation or cleanup services were performed shall create a rebuttable presumption that the acts or omissions were not negligent.

C.58:10-23.11f19 Performance surety bond.

17. a. When hazardous substance remediation is to be undertaken under contract with the department, and a surety bond is required pursuant to N.J.S.2A:44-143, the officer or agent contracting on behalf of the department shall require a performance surety bond with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors and suppliers having a direct, contractual relationship with the response action contractor, or with the owner of the site, as the case may be, for all labor performed or materials, provisions, provender, or other supplies, fuels, oils, implements, or machinery used or consumed in such remediation work. When such contract is to be performed

for a sum not exceeding $20,000, the department may at its discretion waive the bond requirement of this section.

b. A surety's obligation shall not extend to any claim for damages based upon alleged negligence that resulted in personal injury, wrongful death, or damage to real or personal property, and no bond shall in any way be construed as a liability insurance policy. The surety shall in no event be liable on bonds to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by a breach of the bonded contract. Nothing herein shall relieve the surety's obligation to guarantee the contractor's performance of all conditions of the contract. Only the obligee named on the bond, and any person performing labor for a contractor or subcontractor covered by the surety bond, or any person providing materials for remediation work for which the bond is required pursuant to this section, shall have any claim against the surety under the bond. Unless otherwise provided for by the division in the bond, in the event of a default, the surety's liability on a performance bond shall be only for the cost of completion of the contract work in accordance with the plans and specifications, less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond.

18. The Department of Environmental Protection shall, 24 months after the enactment of this act, submit a report to the Assembly Energy and Environment Committee and the Senate Environmental Quality Committee, or their successors, assessing the current availability and affordability of environmental liability insurance for contractors in the private market, and the legal defense and indemnification program administered pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-23.11f8 through 58:10-23.11f18). The report shall include the costs of administering the program to the State; a list of contractors indemnified by the State and the amount of indemnification provided; a list of site specific bids and awards for each contract for which the State provided indemnification; the impact of the program on the quality and cost of response action contracts; the number and nature of any actions or claims defended by the State under the legal defense and indemnification program and their disposition; the number and nature of any actions or claims for environmental impairment damages brought against contractors for which private insurance carriers were liable and their disposition; a technical evaluation of contractor practices that were causes of claims against the program, and recommendations for rectifying any such deficiencies; such other information as may be helpful to the Legislature in evaluating the continued need for, and use-

fulness of, the legal defense and indemnification program; and a recommendation as to whether the legal defense and indemnification program should be continued. If the department recommends a continuation of the program, the department shall identify, as practicable, measures that may be taken to minimize the legal exposure of, and the costs to, the State under the program, as well as such other measures as would improve program effectiveness.

C.58:10-23.11f20 Rules, regulations.

19. Within 120 days of the effective date of this act, the State Treasurer and the Attorney General as necessary shall, pursuant to "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), respectively adopt rules and regulations to implement the provisions of this act.

C.58:10-23.11f21 Act not applicable to certain contracts or agreements.

20. The provisions of this amendatory and supplementary act shall not affect any contract or agreement for legal defense and indemnification entered into by the Department of Environmental Protection with a contractor pursuant to P.L.1986, c.59 prior to the effective date of P.L.1991, c.373 (C.58:10-23.11f8 et al.).

Repealer.

21. Section 5 of P.L.1986, c.59 is repealed.

22. This act shall take effect immediately and sections 1 through 11 and section 19 shall expire three years from the date of its enactment.

Approved January 10, 1992.

CHAPTER 374

AN ACT exempting certain transactions entered into by local harbor and waterfront commissions from public bidding requirements and amending P.L.1940, c.161.

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

1. Section 3 of P.L.1940, c.161 (C.40:68-24) is amended to read as follows:

C.40:68-24 Governing body approval required.

3. a. Any act by the commission so created involving an expenditure, lease or transfer of property exceeding $2,500.00 in value shall require the approval, by resolution, of the municipal governing body.

b. Subject to the approval, by resolution, of the municipal governing body and notwithstanding the requirements of section 14 of P.L.1971, c.199 (C.40A:12-14), the commission so created may lease without public bidding, at such prices and upon such terms as it deems reasonable, any real or riparian property and the improvements thereon under its management, operation and control for a term not to exceed 20 years.

2. This act shall take effect immediately.

Approved January 10, 1992.

CHAPTER 375

AN ACT authorizing the New Jersey Sports and Exposition Authority to undertake certain projects, including a convention center project in Atlantic City and providing for the application of certain tax revenues to that project; amending P.L.1971, c.137 and P.L.1981, c.459, supplementing P.L.1971, c.137 and repealing sections 10 and 15 of P.L.1981, c.459.

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

1. Section 3 of P.L.1971, c.137 (C.5:10-3) is amended to read as follows:

C.5:10-3 Definitions.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

a. "Act" means this New Jersey Sports and Exposition Authority Law.

b. "Authority" means the New Jersey Sports and Exposition Authority created by section 4 of this act.

c. "Bonds" means bonds issued by the authority pursuant to the act.

d. "Meadowlands complex" means the sports and exposition project authorized by paragraph (1) of subsection a. of section 6 of the act.

e. "Notes" means notes issued by the authority pursuant to the act.

f. "Projects" means and includes any project which the authority is authorized to undertake pursuant to paragraphs 1 through 10 of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6).

g. "State" means the State of New Jersey.

h. "Hackensack meadowlands" means the Hackensack Meadowlands District as delineated in P.L.1968, c.404, s.4 (C.13:17-4).

i. "Meadowlands Commission" means the Hackensack Meadowlands Development Commission created by P.L.1968, c.404.

j. "Racing Commission" means the New Jersey Racing Commission created by P.L.1940, c.17.

k. "Credit agreement" as used herein includes loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, interest exchange agreement, insurance contract, surety bond, commitment to purchase bonds, purchase or sale agreements, or commitments or other contracts or agreements authorized and approved by the authority in connection with the authorization, issuance, security, or payment of bonds.

l. "Luxury tax" means the tax levied and collected by the city of Atlantic City, county of Atlantic, pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.).

m. "Convention center project" means the project authorized by paragraph 9 of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6).

2. Section 4 of P.L.1971, C.137 (C.5:10-4) is amended to read as follows:

C.5:10-4 New Jersey Sports and Exposition Authority.

4. a. There is hereby established in the Department of Community Affairs a public body corporate and politic, with corporate succession, to be known as the "New Jersey Sports and Exposition Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State and the application of the revenue derived from the projects to the purposes provided in this act shall be deemed and held to be applied in support of government.

b. The authority shall consist of the State Treasurer, the Attorney General, the President of the New Jersey Sports and Exposition Authority, and a member of the Hackensack Meadowlands Development Commission, to be appointed by the Governor, who shall be members ex officio, and nine members appointed by the Governor with the advice and consent of the Senate for terms of four years, provided that the members of the authority (other than the ex officio members) first appointed by the Governor shall serve for terms of one year, two years, three years and four years, respectively. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each appointed member may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member 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 oaths shall be filed in the office of the Secretary of State.

d. The chairman shall be appointed by the Governor from the members of the authority other than ex officio members, and the members of the authority shall elect one of their number as vice chairman thereof. The authority shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and seven members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least seven members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member and the treasurer of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member or treasurer, as the case may be, in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary

of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio member of the authority or his services therein.

g. Each ex officio member of the authority may designate an officer or employee of his department or agency to represent him at meetings of the authority, and each such 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 authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered unless during such 15-day period the Governor shall approve the same, in which case such action shall become effective upon such approval. If, in said 15-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into

by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

3. Section 6 of P.L.1971, c.137 (C.5:10-6) is amended to read as follows:

C.5:10-6 Authority projects.

6. a. The authority, pursuant to the provisions of the act, is hereby authorized and empowered, either alone or in conjunction with others, and provided that, in the case of an arrangement with respect to any of the projects set forth in this section which shall be in conjunction with others, the authority shall have sufficient right and power to carry out the public purposes set forth in this act:

(1) To establish, develop, construct, operate, acquire, own, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project to be located in the Hackensack meadowlands upon a site not to exceed 750 acres and upon a site or sites outside of that acreage, but either immediately contiguous thereto or immediately across any public road which borders that acreage, consisting of one or more stadiums, coliseums, arenas, pavilions, stands, field houses, playing fields, recreation centers, courts, gymnasiums, clubhouses, a racetrack for the holding of horse race meetings, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of athletic contests or other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings, and all other structures and appurtenant facilities, related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof.

(2) To establish, develop, construct, acquire, lease or own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project, at a site within the State of New Jersey, consisting of a baseball stadium and other buildings, structures, facilities, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to a complex suitable for the holding of professional baseball games

and other athletic contests or sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof.

(3) To establish, develop, construct, acquire, lease or own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects located within the State of New Jersey, but outside of the meadowlands complex, consisting of aquariums and the buildings, structures, facilities, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to those aquariums, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof. To provide for a project authorized under this paragraph:

(a) (Deleted by amendment, P.L.1988, c.172.)

(b) The authority is authorized to enter into agreements with the State Treasurer providing for the acquisition and construction of an aquarium by the authority, including the land necessary for the aquarium, and the costs thereof, ownership of the aquarium and its land which shall be conveyed to the State upon completion, and the operation by the authority of the aquarium pursuant to a lease or other agreement with the State containing such terms and conditions as the State Treasurer may establish prior to the acquisition and construction by the authority of the aquarium and the disbursements of funds therefor. The State Treasurer is authorized to enter into a lease or other agreement to effectuate the provisions of this subparagraph.

(4) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project consisting of an exposition or entertainment center or hotel or office complex, including any buildings, structures, properties and appurtenances related thereto, incidental thereto, necessary therefor, or complementary

thereto, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems, and equipment, furnishings and all other structures and appurtenances related to, incidental to, necessary for, or complementary to, the purposes of that project. A project authorized under this paragraph may be located within, immediately contiguous to, or immediately across any public road which borders the site of any other project of the authority, except the site of a racetrack authorized by paragraph (5) of this subsection and acquired by the authority prior to 1986.

(5) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of (a) racetrack facilities located within the State of New Jersey, but outside of the meadowlands complex, (b) their contiguous properties, and (c) their auxiliary facilities, including, without limitation, pavilions, stands, field houses, clubhouses, training tracks for horses, racetracks for the holding of horse race meetings, fairgrounds, other exposition facilities, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of horse race meetings, other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, equipment, furnishings, and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of any of those projects or any facility thereof.

Notwithstanding any law to the contrary, the acquisition of any existing racetrack facility in and licensed by the State of New Jersey shall be permitted on the condition that payments equivalent to all municipal, school board and county taxes due to each entity shall be paid by the authority to the extent and in accordance with the same payment schedule as taxes would have been paid each year, as though the racetrack facility remained in private ownership. In the event the authority conveys lands or other parts of the racetrack facility to others, the authority shall receive a reduction of such payments commensurate with the amount required to be paid by the subsequent owner of the lands and improvements dis-

posed of by the authority. In addition, the authority shall be responsible for paying all existing local franchise fees, license and parking tax fees in effect at the time of the acquisition.

(6) To establish, develop, acquire, own, operate, manage, promote and otherwise effectuate, in whole or in part, either directly or indirectly through lessees, licensees or agents, projects consisting of events, expositions, teams, team franchises or membership in professional sports leagues.

(7) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of facilities, at a site or sites within the State of New Jersey and either within or without the meadowlands complex, that are related to, incidental to, necessary for, or complementary to the accomplishment or purpose of any project of the authority authorized by this section, including any buildings, structures, properties and appurtenances related thereto, incidental thereto, necessary therefor, or complementary thereto, such projects to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems, and equipment, furnishings and all other structures and appurtenances related to, incidental to, necessary for, or complementary to the purposes of those projects.

(8) To establish, develop, acquire, construct, reconstruct, improve and otherwise effectuate for transfer to, and for use and operation by, Rutgers, the State University, either directly or indirectly through lessees, licensees or agents, facilities located or to be located on property owned, leased, or otherwise used by Rutgers, the State University, consisting of an upgraded and expanded football stadium and a new track and field, soccer and lacrosse facility and the buildings, structures, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to the football stadium and track and field, soccer and lacrosse facility, such facilities to include driveways, access roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and equipment, furnishings and all other structures and appurtenances related or incidental to, necessary for, or complementary to the purposes of those facilities; provided however that construction shall not begin on the expansion of the seating capacity of Rutgers Stadium until the Commissioner of Transportation certifies

that all funding necessary to complete the Route 18 project in Piscataway Township has been appropriated and construction has begun on the Route 18 project in Piscataway Township under the Department of Transportation's capital program.

(9) To acquire by purchase, lease or otherwise, and to develop, construct, operate, own, lease, manage, repair, reconstruct, restore, improve, enlarge or otherwise effectuate, either directly or through lessees, licensees or agents, a convention center project in the city of Atlantic City, Atlantic County, consisting of the existing convention hall and a new convention hall or center, and associated parking areas and railroad terminal facilities and including the leasing of adjacent land for hotel facilities. In connection therewith, the authority is authorized to:

(a) Assume existing leasehold or other contractual obligations pertaining to any such facilities or properties or to make provision for the payment or retirement of any debts and obligations of the governmental entity operating any such convention hall or center or of any bonds or other obligations payable from and secured by a lien on or pledge of the luxury tax revenues;

(b) Make loans or payments in aid of construction with respect to infrastructure and site development for properties located in the area between the sites of the existing convention hall and a new convention center or located contiguous to or across any public road which borders the area;

(c) Convert the existing convention hall or any facilities, structures or properties thereof, or any part thereof, not disposed of by the authority, to any sports, exposition, exhibition, or entertainment use or to use as a forum for public events or meetings, or to any other use which the authority shall determine to be consistent with its operation of the convention center project.

(10) To provide a feasibility study for the use and development of the existing convention center in the city of Asbury Park, county of Monmouth and to provide a feasibility study for the construction, use and development of a convention center or recreational facility in any other municipality.

(11) To provide funding to public or private institutions of higher education in the State to establish, develop, acquire, construct, reconstruct or improve facilities located or to be located on property owned, leased, or otherwise used by an institution, consisting of sports facilities and the buildings, structures, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to those sports facilities, such facilities to

include driveways, access roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and equipment, furnishings and all other structures and appurtenances related or incidental to, necessary for, or complementary to the purposes of those facilities.

b. The authority, pursuant to the provisions of the act, is authorized (1) to make, as part of any of the projects, capital contributions to others for transportation and other facilities, and accommodations for the public's use of any of those projects, (2) to lease any part of any of those project sites not occupied or to be occupied by the facilities of any of those projects, for purposes determined by the authority to be consistent with or related to the purposes of those projects, including, but not limited to, hotels and other accommodations for transients and other facilities related to or incidental to any of those projects, and (3) to sell or dispose of any real or personal property, including, but not limited to, such portion of the site of any of those projects not occupied or to be occupied by the facilities of any of those projects, at not less than the fair market value of the property, except in the case of sale or disposition to the State, any political subdivision of the State or any agency or instrumentality of the State or any political subdivision of the State.

c. Revenues, moneys or other funds, if any, derived from the operation or ownership of the meadowlands complex, including the conduct of horse race meetings, shall be applied, in accordance with the resolution or resolutions authorizing or relating to the issuance of bonds or notes of the authority, to the following purposes and in the following order:

(1) The costs of operation and maintenance of the meadowlands complex and reserves therefor;

(2) Principal, sinking fund installments and redemption premiums of and interest on any bonds or notes of the authority payable from such revenues, moneys or other funds and issued for the purposes of the meadowlands complex or for the purposes of refunding the same, including reserves and payments with respect to credit agreements therefor;

(3) The costs of any major or extraordinary repairs, renewals or replacements with respect to the meadowlands complex or incidental improvements thereto, not paid pursuant to paragraph (1) above, including reserves therefor;

(4) Payments required to be made pursuant to section 18b.;

(5) Payments authorized to be made pursuant to section 18c.;

(6) Except to the extent payments with respect to bonds or notes are provided with priority in accordance with paragraph (2) of this subsection, payments required to be made in accordance with the resolution authorizing or relating to the issuance of bonds or notes of the authority, for the purposes of any project authorized by this act, including payments and reserves with respect to any bonds or notes of the authority with respect to the meadowlands complex which are not provided with priority in accordance with paragraph (2) of this subsection;

(7) Payments required to be made to repay any obligation incurred by the authority to the State;

(8) The balance remaining after application in accordance with the above shall be deposited in the General State Fund, provided that (a) there shall be appropriated for authorized State purposes from the amount so deposited that amount which shall be calculated by the State Treasurer to be the debt service savings realized with respect to the refinancing of the initial project as defined in section 1 of P.L.1973, c.286 (C.5:10-14.1) at the meadowlands complex, by the issuance of bonds of the authority guaranteed by the State, and (b) after such appropriation, 40% of any balance remaining from the amounts so deposited shall be appropriated to the Meadowlands Commission for any of its purposes authorized by P.L.1968, c.404, and any amendments or supplements thereto.

d. Revenues, moneys or other funds, if any, derived from the operation or ownership of any project other than the meadowlands complex or the convention center project, and other than a baseball stadium project or an office complex project located on the site of a baseball stadium shall be applied for such purposes, in such manner and subject to such conditions as shall be provided in the resolution authorizing or relating to the issuance of bonds or notes of the authority for the purposes of such project, and the balance, if any, remaining after such application may be applied, to the extent not contrary to or inconsistent with the resolution, in the following order (1) to the purposes of the meadowlands complex, unless otherwise agreed upon by the State Treasurer and the authority, (2) to the purposes of any other project of the authority; and, the balance remaining, if any, shall be deposited in the General Fund.

e. Revenues, moneys or other funds, if any, derived from the operation, ownership, or leasing of a baseball stadium project or an office complex project located on the site of a baseball stadium shall be applied for the purposes, in the manner and subject

to the conditions as shall be provided in the resolution authorizing or relating to the issuance of bonds or notes of the authority for the purposes of a baseball stadium project or an office complex project located on the site of a baseball stadium, if any, and the balance, if any, remaining after such application shall be applied, to the extent not contrary to or inconsistent with the resolution, to the following purposes and in the following order:

(1) The costs of operation and maintenance of a baseball stadium project and an office complex project located on the site of a baseball stadium and reserves therefor;

(2) Payments made to repay the bonded indebtedness incurred by the authority for the purposes of a baseball stadium project or an office complex project located on the site of a baseball stadium;

(3) Payments equivalent to an amount required to be made by the State for payments in lieu of taxes pursuant to P.L.1977, c.272 (C.54:4-2.2a et seq.);

(4) The balance remaining after application in accordance with the above shall be deposited in the General Fund.

f. Revenues, moneys or other funds, if any, derived from the operation, ownership or leasing of the convention center project shall be applied to the costs of operating and maintaining the convention center project and to the other purposes set forth in this subsection as shall be provided by resolution of the authority.

Luxury tax revenues paid to the authority by the State Treasurer pursuant to section 14 of P.L.1991, c.375 (C.5:10-14.4) shall be deposited by the authority in a separate fund or account and applied to the following purposes and in the following order:

(1) To pay the principal, sinking fund installments and redemption premiums of and interest on any bonds or notes of the authority, including bonds or notes of the authority issued for the purpose of refunding bonds or notes, issued for purposes of (i) the initial acquisition of the existing properties which will constitute part of the convention center project, if the bonds or notes shall be payable under the terms of the resolution of the authority relating thereto from luxury tax revenues, or (ii) providing improvements, additions or replacements to the convention center project, if the bonds or notes shall be payable under the terms of the resolution of the authority relating thereto from luxury tax revenues; and to pay any amounts due from the authority under any credit agreement entered into by the authority in connection with the bonds or notes.

(2) To pay the costs of operation and maintenance of the convention center project.

(3) To establish and maintain a working capital and maintenance reserve fund for the convention center project in an amount as shall be determined by the authority to be necessary.

(4) To repay to the State those amounts paid by the State with respect to bonds or notes of the authority issued for the purposes of the convention center project.

(5) The balance of any luxury tax revenues not required for any of the foregoing purposes and remaining at the end of any calendar year shall be paid to the State Treasurer for application to purposes in the city of Atlantic City pursuant to section 5 of P.L.1981, c.461 (C.40:48-8.30a).

The authority may pledge the luxury tax revenues paid to it as provided for in section 14 of P.L.1991, c.375 (C.5:10-14.4) as security for the payment of the principal of and interest or premium on its bonds or notes issued for the purposes set forth above in paragraph (1) of this subsection f. in the same manner, to the same extent and with the same effect as the pledge of any of its other revenues, receipts and funds authorized by this act.

4. Section 1 of P.L.1981, c.459 (C.52:27H-29) is amended to read as follows:

C.52:27H-29 Findings, declarations.

1. The Legislature finds that the tourist, resort and convention industry of Atlantic City has traditionally made an important contribution to the economic vitality of this State; that the recent revitalization of that industry as a result of the authorization of casino gaming in Atlantic City has resulted in significant economic benefits not only to the residents of the city and its immediate environs, but to all of the residents of the State in the form of increased business and employment opportunities and augmented State and local revenues; and that the future growth of this industry will depend in part upon the provision and operation of an attractive convention center in Atlantic City and the provision of an adequate mechanism whereby the interests and efforts of the State, the city and the private sector may be effectively coordinated and the financial soundness of a convention center assured.

To this end, the Legislature declares the establishment of an authority having the requisite power to promote, operate and maintain a convention center in Atlantic City under the supervision of the New Jersey Sports and Exposition Authority to be in the public interest of the citizens of this State.

5. Section 4 of P.L.1981, c.459 (C.52:27H-32) is amended to read as follows:

C.52:27H-32 Membership; appointment.

4. a. The authority shall consist of seven members. Any member holding office on the date this section becomes effective shall continue as a member until replaced in accordance with the procedures hereinafter set forth, provided that no such member shall hold office beyond June 30, 1992. As soon as practicable after the date on which this section becomes effective, vacancies in the membership of the authority shall be filled and new appointments to the membership of the authority shall be made as provided in this section so that the membership of the authority shall consist of the following:

(1) Six public members, to be appointed by the Governor with the advice and consent of the Senate; and

(2) The President of the New Jersey Sports and Exposition Authority, who shall be an ex officio member.

b. Vacancies to be filled in the membership of the authority and any new appointments made to such membership after the date on which this section becomes effective shall be filled or made so as to provide, as promptly as practicable consistent with the membership provisions set forth in subsection a. of this section, for the incumbency of the member set forth in paragraph (2) of subsection a. of this section and then the incumbency of the members set forth in paragraph (1) of subsection a. of this section. The ex officio member of the authority may designate an officer or employee of the New Jersey Sports and Exposition Authority to represent the ex officio member at meetings of the authority and that designee may lawfully vote and otherwise act on behalf of the ex officio member. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority

c. No more than three of the public members appointed pursuant to paragraph (1) of subsection a. of this section shall be affiliated with the same political party. The public members of the authority shall serve for a term of five years and until a successor shall have been appointed and qualified; except that of the public members first appointed pursuant to the provisions of P.L.1991, c.375, the Governor shall designate upon appointment: two members for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year.

6. Section 6 of P.L.1981, c.459 (C.52:27H-34) is amended to read as follows:

C.52:27H-34 Quorum; officers; executive director.

6. a. The authority shall not be constituted and shall not take action or adopt motions or regulations until all original authorized members shall have been appointed and qualified. The powers of the authority shall be vested in the members thereof and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the authority at any meeting by the affirmative vote of a majority of the quorum, unless in any case the bylaws of the authority or any of the provisions of this act shall require a larger number. The authority may designate one or more of its agents, officers or employees to exercise, under its supervision and control, such administrative functions, powers and duties as it may deem proper, consistent with the provisions of this act and with the bylaws of the authority. No vacancy in the membership of the authority shall affect the right of the quorum to exercise all the rights and perform all the duties of the authority.

b. The chairman of the authority shall be appointed by the Governor, and the authority shall designate one of its members to serve as the vice-chairman. Subject to approval by the New Jersey Sports and Exposition Authority, the authority shall appoint an executive director who shall serve as its chief administrative officer. The executive director shall be a person qualified by training and experience to perform the duties of his office, as those duties shall be prescribed by the bylaws of the authority.

7. Section 8 of P.L.1981, c.459 (C.52:27H-36) is amended to read as follows:

C.52:27H-36 Minutes of meetings.

8. A true copy of the minutes of every meeting of the authority shall be forthwith transmitted to the Governor. No action taken at that meeting by the authority shall have force or effect until 15 days after the copy of the minutes shall have been so delivered unless during the 15-day period the Governor shall approve the same, in which case the action shall become effective upon that approval. If, in the 15-day period, the Governor returns the copy of the minutes with veto of any action taken by the authority or any member thereof at that meeting, that action shall be null and of no effect.

8. Section 9 of P.L.1981, c.459 (C.52:27H-37) is amended to read as follows:

C.52:27H-37 Convention center contract.

9. The authority shall have the power to operate the convention center project of the New Jersey Sports and Exposition Authority in the city of Atlantic City under a contract with the New Jersey Sports and Exposition Authority containing the terms and provisions as the New Jersey Sports and Exposition Authority shall determine to be in furtherance of the purposes of this act.

9. Section 12 of P.L.1981, c.459 (C.52:27H-40) is amended to read as follows:

C.52:27H-40 Additional powers.

12. In addition to the powers granted to the authority in this act, the authority, consistent with the terms of any contract entered into pursuant to section 9 of this act (C.52:27H-37), may:

a. Make and alter bylaws for its organization and internal management and, subject to the restrictions of any contract entered into pursuant to section 9 of this act, make rules and regulations with respect to its operations;

b. Adopt an official seal and alter the same at its pleasure;

c. Sue and be sued in its own name;

d. Make and enter into all contracts or agreements necessary or incidental to the performance of its duties;

e. Enter into agreements or other transactions with and accept grants and the cooperation of the United States or any agency thereof or any State or local agency in furtherance of the purposes of this act, and do anything necessary in order to avail itself of this aid and cooperation;

f. Solicit, receive and accept aid, loans 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 the conditions upon which this aid, these loans and contributions shall be made, including but not limited to grants from any department or agency of the United States or any State or local agency for any purpose consistent with this act;

g. Acquire, own, hold, sell, exchange, lease or otherwise dispose of real or personal property or any interest therein in the exercise of its powers and the performance of its duties under this act;

h. Subject to approval by the New Jersey Sports and Exposition Authority, appoint such officers, employees, and agents as it may require for the performance of its duties, and fix their com-

pensation, promote and discharge them, all without regard to the provisions of Title 11A of the New Jersey Statutes;

i. Provide advisory, consultative and 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;

j. Subject to the provisions of any contract entered into pursuant to section 9 of this act, to invest moneys of the authority not required for immediate use in those obligations, securities and other investments as the authority shall deem prudent;

k. Procure insurance coverage in such types and amounts and from such insurers as may be advisable;

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

m. Maintain an office at such place or places in the city of Atlantic City as it may designate;

n. Advertise and promote the tourist, resort, convention and casino gaming industries of the city of Atlantic City and for these purposes establish funds, adopt and collect fees and other charges and make expenditures consistent with the provisions of the operating contract with the New Jersey Sports and Exposition Authority; and

o. Do any act necessary to the exercise of these powers or reasonably implied therefrom.

Notwithstanding, the provisions of P.L.1981, c.459 (C.52:27H-29 et seq.) or any other law to the contrary, any contracts or agreements to be entered into by the authority in the exercise of the powers granted to the authority shall be subject to prior approval by the New Jersey Sports and Exposition Authority.

10. Section 14 P.L.1981, c.459 (C.52:27H-42) is amended to read as follows:

C.52:27H-42 Annual budget.

14. a. As soon as it is practicable after the appointment and qualification of the members of the authority, and annually thereafter, at least 45 days preceding the commencement of the authority's fiscal year on July 1 of each year, the authority shall prepare a proposed budget for its operations and activities for the ensuing fiscal year.

b. The budget shall set forth anticipated revenues for the ensuing fiscal year and the sources thereof, and appropriations for the same period, which appropriations shall not exceed the anticipated revenues. No revenue from any source shall be anticipated

unless it can be reasonably expected to be realized during the fiscal year to which the budget applies. Appropriations shall be segregated as salaries and wages, contractual other expenses, and noncontractual other expenses.

c. An appropriation for "anticipated operating deficit of preceding year" shall appear in each annual budget in the amount by which the liabilities and disbursements of the authority for expenditures in the next preceding fiscal year exceed or are likely to exceed receipts and other revenue in that year, subtracting any expenditures provided for by surplus anticipated in the budget.

d. No proposed budget prepared by the authority pursuant to this section shall be approved by the authority unless it is in compliance with the terms of any contract authorized pursuant to section 9 of this act and has been approved by the New Jersey Sports and Exposition Authority.

11. Section 16 P.L.1981, c.459 (C.52:27H-44) is amended to read as follows:

C.52:27H-44 Annual report; operating and financial statement; audit.

16. On or before the last day of the third month following the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the Governor, the Legislature, and the New Jersey Sports and Exposition Authority. The report shall set forth a complete operating and financial statement covering its operations during the year. The director shall audit the books and accounts of the authority for each fiscal year, and a copy of that audit shall be filed with the Governor, the Legislature, and the New Jersey Sports and Exposition Authority.

C.5:10-14.3 Sports Authority Fund.

12. a. The State Treasurer shall establish a special fund to be known as the "Sports Authority Fund" and shall pay into the fund amounts from the General Fund as shall be necessary to pay the principal and interest on bonds or notes of the authority issued pursuant to this section and to pay any amounts due from the authority under any credit agreement entered into by the authority in connection with the bonds or notes, provided that all payments from the General Fund shall be subject and dependent upon appropriations made from time to time for those purposes.

b. (1) The State Treasurer and the authority are authorized to enter into agreements as shall be necessary to effectuate the purposes of this section, including without limitation, provisions for securing the

payment of bonds or notes issued by the authority pursuant to subsection d. of this section and the interest thereon and providing for the investment of moneys in the fund; provided that the agreements shall be subject to approval by the presiding officers of both houses of the Legislature, and provided further that when the purposes of this section have been satisfied, and upon the earlier of:

(a) the certification by the State Treasurer that the revenues of the authority are sufficient to satisfy the requirements of paragraphs (1), (2), (3), (4), (5) and (6) of subsection c. of section 6 of P.L.1971, c.137 (C.5:10-6) for the term of bonds or notes issued pursuant to subsection d. of this section; or

(b) the satisfaction of the requirements for the payment of bonds or notes issued pursuant to P.L.1991, c.375 (C.5:10-3 et al.); the State Treasurer and the authority shall not, except for the refunding of bonds or notes issued pursuant to subsection d. of this section which produces debt service savings, enter into any further agreements regarding payments by the State Treasurer into the "Sports Authority Fund" for any reason, including but not limited to, the financing or restructuring of the debt of the authority.

(2) The agreements shall indicate the nature and scope of the projects to be financed pursuant to this section.

(3) The agreements shall provide that with respect to the Atlantic City convention center project, the authority shall review all existing expert studies that present options as to the scope and nature of the project and the linkages between the project and the economic development of Atlantic City. Based upon its analysis of the available studies and such other expert studies as the authority may authorize, the authority shall report to the Legislature and include in the minutes of the authority its proposal for the development of the convention center. The report shall include an explanation for the selection of the project option proposed by the authority.

c. Notwithstanding anything to the contrary in this act, if and to the extent provided in any agreement between the State Treasurer and the authority, all or part of the revenues of the authority, other than luxury tax revenues or revenues of the convention center project, in excess of the requirements of the resolutions authorizing or relating to the issuance of any of the authority's bonds or notes, except those issued pursuant to this section, shall be paid into the General Fund in repayment to the State for amounts previously paid by the State pursuant to this section with respect to the payment of principal and interest on bonds or notes issued for any of the purposes set forth in this section, except the purposes set forth in paragraphs (3), (4) and (5) of

subsection d. of this section, and any payments on account of any credit agreements with respect to the bonds or notes. Except as otherwise provided in this section, bonds or notes of the authority issued pursuant to this section shall be authorized, sold and issued in the manner and be entitled to the benefits, protection and provisions as apply to bonds and notes of the authority authorized to be issued pursuant to P.L.1971, c.137, (C.5:10-1 et seq.).

d. In addition to its other powers to issue bonds and notes, the authority shall have power to issue from time to time bonds and notes payable from amounts in the Sports Authority Fund established pursuant to subsection a. of this section, as follows:

(1) To provide sufficient funds to refund from time to time outstanding bonds or notes of the authority issued for the meadowlands complex or the Monmouth racetrack project authorized pursuant to paragraph (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), whether or not the bonds or notes or interest thereon have become due, to provide for the establishment of funds or reserves to secure payment of the bonds or notes or any other bonds or notes issued or to be issued for those purposes or interest thereon, and to provide for the payment of all other costs or expenses of the authority incident to or necessary to carry out the refunding; provided that the refunding bonds issued at any time pursuant to this paragraph shall not exceed that amount estimated to be necessary so that subsequent to the refunding, the revenues from the meadowlands complex or the Monmouth racetrack project, as the case may be, shall be sufficient to pay all costs payable from those revenues, as shall be estimated in a determination by the authority made in accordance with the agreement between the authority and the State Treasurer;

(2) To finance or refinance a capital program for the meadowlands complex and the Monmouth racetrack project authorized pursuant to paragraph (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), adopted by the authority to provide for major repairs, reconstruction and improvements which are legally mandated or otherwise needed to meet environmental or safety requirements, to prevent a loss of revenues, to augment revenues or to continue or enhance the operations of any of the facilities thereof, provided that the aggregate cost of the projects financed pursuant to this paragraph shall not exceed $30,000,000, exclusive of interest paid during construction;

(3) To provide for the financing or refinancing of the facilities for Rutgers, the State University pursuant to paragraph (8) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6);

(4) To provide for the financing or refinancing of the convention center project;

(5) To finance or refinance feasibility studies for public projects consistent with the purposes of the authority; and

(6) To provide for the financing or refinancing of any other project of the authority, but only if and to the extent expressly authorized by law enacted subsequent to the enactment of this act.

(7) To provide for the financing of the facilities at institutions of higher education pursuant to paragraph (11) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), based upon a list of projects recommended by the Chancellor of Higher Education following a competitive application process, provided that the aggregate financing of the projects undertaken pursuant to this paragraph shall not exceed $5,000,000.

e. Bonds and notes authorized pursuant to this section shall be special obligations of the authority payable as herein provided. Bonds and notes shall not be deemed to constitute a debt or liability of the State or a pledge of the faith and credit of the State but are dependent for repayment upon appropriations as provided by law from time to time. These bonds and notes and the interest thereon may also be payable from the proceeds thereof set aside for that purpose and income accruing therefrom.

C.5:10-5.1 Annual operating budget submission to State; recordation in minutes.

13. In accordance with procedures which shall be established by the State Treasurer and the authority, the proposed annual operating budget of the authority and the capital budgets for all projects of the authority, and any amendments thereto, shall be submitted to the State Treasurer and the Joint Budget Oversight Committee of the Legislature prior to submission to the members of the authority so as to provide the State Treasurer and the Joint Budget Oversight Committee adequate time to provide comments with respect thereto.

The annual operating budget of the authority and the capital budgets for all projects of the authority, and any amendments thereto shall be adopted as part of, and recorded in the full text of, the minutes of the authority.

C.5:10-14.4 Luxury tax revenues.

14. Notwithstanding the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.), in the event that the convention hall or halls, includ-

ing the site of a convention hall to be constructed, located in any municipality which levies a luxury tax pursuant to such law, shall be purchased, leased or otherwise acquired by the New Jersey Sports and Exposition Authority and for so long as the authority shall be the owner or be responsible for supervision of the operation of the convention hall or halls:

a. Subject to and after providing for the payment of the amounts, if any, required to be paid from the luxury tax revenues of the municipality under any resolution, indenture or security agreement authorizing or securing bonds or other obligations of a county improvement authority and to be applied to the payment of the principal of and interest on those bonds or other obligations issued for the convention center project and to the maintenance of reserves therefor and the allocation of moneys for future debt service payments, all the remaining luxury tax revenues on deposit in the luxury tax fund created pursuant to section 5 of P.L.1979, c.273 (C.40:48-8.30), including any balance not required for those purposes on deposit in the luxury tax fund on the date of enactment of P.L.1991, c.375, shall be paid promptly during each year, commencing with the year in which P.L.1991, c.375 is enacted, by the State Treasurer from the luxury tax fund to the New Jersey Sports and Exposition Authority for application to the purposes of the convention center project.

b. No further bonds or other obligations, other than refunding bonds, shall be issued and no lease shall be entered into, by any public body other than the New Jersey Sports and Exposition Authority, the payment of which is to be made from or secured by the luxury tax revenues of the municipality; and

c. Luxury tax revenues of the municipality which are in excess of the requirements with respect thereto of the New Jersey Sports and Exposition Authority relating to the convention center project shall be applied to the purposes set forth in section 5 of P.L.1981, c.461 (C.40:48-8.30a).

d. If the luxury tax of the municipality, including any increase thereof adopted by the municipality after the enactment of P.L.1991, c.375, shall be pledged to the payment of bonds or notes of the New Jersey Sports and Exposition Authority, the municipality shall not repeal the luxury tax, nor reduce the rate of the tax, nor eliminate from taxation any retail sales that are subject to the tax on the date of enactment of P.L.1991, c.375 (C.5:10-3 et al.), so long as the bonds or notes shall remain outstanding.

C.5:10-5.2 Audit contract.

15. The State Treasurer, in consultation with the State Auditor and the New Jersey Sports and Exposition Authority, shall enter into a contract with a person qualified to conduct an independent operations and financial audit of the authority and may prescribe any supporting documentation to be provided under the terms of the contract. The contract shall require that recommendations be made regarding a reasonable operations and maintenance budget. Copies of the audit shall be submitted to the authority, the State Treasurer and the Joint Budget Oversight Committee of the Legislature.

Repealer.

16. Sections 10 and 15 of P.L.1981, c.459 (C.52:27H-38 and 52:27H-43) are repealed.

17. This act shall take effect immediately, except that sections 4 through 11 and section 16 of this act shall take effect upon the acquisition by the New Jersey Sports and Exposition Authority, by purchase, lease or otherwise, of the convention center facilities in Atlantic City, including the existing convention hall and the site of the convention center to be constructed.

Approved January 13, 1992.

CHAPTER 376

AN ACT to authorize the collection of fees for the promotion of tourism, conventions, resorts and casino gaming in municipalities with convention center facilities supported by a local retail sales tax.

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

C.40:48-8.45 Definitions.

1. As used in this act:

a. "Convention center operating authority" means, in the case of any eligible municipality, the public authority or other governmental entity empowered to operate convention hall and the convention center facilities in the eligible municipality.

b. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

c. "Eligible municipality" means any municipality in which any portion of the proceeds of a retail sales tax levied by ordinance adopted by the municipality pursuant to section 1 of P.L.1947, c.71 (C.40:48-8.15) is applied as authorized by law to the payment of costs of convention center facilities located in the municipality.

d. "Hotel" means a building or a portion of a building which is regularly used and kept open for the lodging of guests and includes a hotel, motel, inn, and rooming or boarding house, whether or not meals are served.

e. "Occupied room" means a room or rooms of any kind in any part of a hotel, other than a place of assembly, which is used or possessed by a guest or guests, whether or not for consideration.

C.40:48-8.46 Promotional fees.

2. There is authorized to be imposed on and collected from hotels in an eligible municipality, fees for the promotion of tourism, conventions, resorts and casino gaming, if any, in the eligible municipality.

C.40:48-8.47 Proceeds from promotional fees.

3. The proceeds from the fees collected in any eligible municipality pursuant to this act shall be paid into a special fund which shall be established and held by the convention center operating authority which is empowered to operate the convention center facilities in the eligible municipality. Amounts in the special fund shall be expended by the convention center operating authority solely for the purpose of promoting tourism, conventions, resorts and casino gaming, if any, in the eligible municipality. Pending this application, monies in the fund shall be invested in accordance with law applicable to the convention center operating authority and the income therefrom shall be credited to the fund.

C.40:48-8.48 Fees adopted by resolution.

4. Fees under this act with respect to any eligible municipality shall be adopted by resolution of the convention center operating authority operating convention center facilities within the eligible municipality. The rate thereof shall be $2 per day for each occupied room in the case of any hotels in the eligible municipality which provide casino gaming, and $1 per day for each occupied room in the case of the other hotels in the eligible municipality. A certified copy of the resolution shall be provided to the State Treasurer and the director.

C.40:48-8.49 Fees; collection, administration.

5. The fees under this act shall be collected and administered by the director, notwithstanding the provisions of any other law to the contrary. In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected by the director pursuant to this section on account of the fees imposed pursuant to this act in an eligible municipality which are payable to the convention center operating authority operating convention center facilities in such eligible municipality. 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 convention center operating authority the amount so determined and certified.

6. This act shall take effect immediately.

Approved January 13, 1992.

CHAPTER 377

AN ACT providing for the certification of nurse practitioners/clinical nurse specialists and granting them prescriptive powers under certain circumstances, and revising parts of the statutory law.

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

C.45:11-45 Short title.

1. This act shall be known and may be cited as the "Nurse Practitioner/Clinical Nurse Specialist Certification Act."

2. Section 1 of P.L.1947, c.262 (C.45:11-23) is amended to read as follows:

C.45:11-23 Definitions.

1. As used in this act:

a. The words "the board" mean the New Jersey Board of Nursing created by this act.

b. The practice of nursing as a registered professional nurse is defined as diagnosing and treating human responses to actual or potential physical and emotional health problems, through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed or otherwise legally authorized physician or dentist. Diagnosing in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. Such diagnostic privilege is distinct from a medical diagnosis. Treating means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen. Human responses means those signs, symptoms, and processes which denote the individual's health need or reaction to an actual or potential health problem.

The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding; reinforcing the patient and family teaching program through health teaching, health counseling and provision of supportive and restorative care, under the direction of a registered nurse or licensed or otherwise legally authorized physician or dentist.

The terms "nursing," "professional nursing," and "practical nursing" as used in this act shall not be construed to include nursing by students enrolled in a school of nursing accredited or approved by the board performed in the prescribed course of study and training, nor nursing performed in hospitals, institutions and agencies approved by the board for this purpose by graduates of such schools pending the results of the first licensing examination scheduled by the board following completion of a course of study and training and the attaining of age qualification for examination, or thereafter with the approval of the board in the case of each individual pending results of subsequent examinations; nor shall any of said terms be construed to include nursing performed for a period not exceeding 12 months unless the board shall approve a longer period, in hospitals, institutions or agencies by a nurse legally qualified under the laws of another state or country, pending results of an application for licensing under this act, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice under this act; nor shall any of said terms be construed to include the practice of nursing in this State by any legally qualified nurse of another state whose

engagement made outside of this State requires such nurse to accompany and care for the patient while in this State during the period of such engagement, not to exceed six months in this State, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice in this State; nor shall any of said terms be construed to include nursing performed by employees or officers of the United States Government or any agency or service thereof while in the discharge of his or her official duties; nor shall any of said terms be construed to include services performed by nurses aides, attendants, orderlies and ward helpers in hospitals, institutions and agencies or by technicians, physiotherapists, or medical secretaries, and such duties performed by said persons aforementioned shall not be subject to rules or regulations which the board may prescribe concerning nursing; nor shall any of said terms be construed to include first aid nursing assistance, or gratuitous care by friends or members of the family of a sick or infirm person, or incidental care of the sick by a person employed primarily as a domestic or housekeeper, notwithstanding that the occasion for such employment may be sickness, if such incidental care does not constitute professional nursing and such person does not claim or purport to be a licensed nurse; nor shall any of said terms be construed to include services rendered in accordance with the practice of the religious tenets of any well-recognized church or denomination which subscribes to the art of healing by prayer. A person who is otherwise qualified shall not be denied licensure as a professional nurse or practical nurse by reason of the circumstances that such person is in religious life and has taken a vow of poverty.

c. "Homemaker-home health aide" means a person who is employed by a home care services agency and who is performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed registered professional nurse, "Home care services agency" means home health agencies licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and employment agencies and temporary help services firms regulated by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General pursuant to P.L.1989, c.331 (C.34:8-43 et seq.) and P.L.1960, c.39 (C.56:8-1 et seq.) respectively, which are engaged in the business of procuring or offering to procure employment for homemaker-home health aides, where a fee is exacted, charged or received directly or indirectly for procuring or offering to procure that employment.

d. "Nurse practitioner/clinical nurse specialist" means a person who holds a certification in accordance with section 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

e. "Collaborating physician" means a person licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes who agrees to work with a nurse practitioner/clinical nurse specialist.

Nothing in this act shall confer the authority to a person licensed to practice nursing to practice another health profession as currently defined in Title 45 of the Revised Statutes.

3. Section 2 of P.L.1947, c.262 (C.45:11-24) is amended to read as follows:

C.45:11-24 The board; appointment; terms; qualifications; duties; compensation.

2. a. The board; appointment; terms. In addition to the members appointed to represent the interests of the public pursuant to P.L.1971, c.60 as amended by P.L.1977, c.285 (C.45:1-2.2) the New Jersey Board of Nursing shall consist of 10 members, six of whom shall be registered professional nurses, two of whom shall be licensed practical nurses, one of whom shall be a nurse practitioner/clinical nurse specialist, and one of whom shall be an additional public member, all to be appointed by the Governor. Appointments to the board shall be for terms of five years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. In making appointments the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.

b. Qualifications for appointment. The nurse practitioner/clinical nurse specialist member shall be a resident of this State, shall be a graduate of an accredited nurse practitioner/clinical nurse specialist program, shall have had at least five years' experience in professional nursing, shall at the time of appointment be actively working as a nurse practitioner/clinical nurse specialist, and, except for the member first appointed, shall hold a certification as a nurse practitioner/clinical nurse specialist pursuant to P.L.1991, c.377 (C.45:11-45 et al.). Each registered professional nurse member of the board shall be a citizen of the United States and a

resident of this State; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least five years' experience in professional nursing following graduation from an accredited school of nursing; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse members of the board shall be citizens of the United States and residents of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least three years' experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or work related thereto.

c. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.

d. Duties and powers. The board shall have the following duties and powers: (1) It shall hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for one year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at least five years' experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive secretary shall hold office during the will and pleasure of the board. (4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board. (5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided. (7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board. (8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided. (9) It shall in its discretion investigate and prosecute all violations of provisions of this

act. (10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record the board shall be paid a fee of $3.00, but such authentication, if made at the request of any public agency of this or any other jurisdiction, may be without fee. (11) In its discretion it may publish at such times as it shall determine a list of nurses licensed under this act, a list of schools of nursing accredited or approved under this act, and such other information as it shall deem advisable. (12) It shall prescribe standards and curricula for schools of nursing and evaluate and approve courses for affiliation. (13) It shall hear and determine applications for accreditation of schools of professional nursing, conduct investigations before and after accreditation of such schools and institutions with which they are affiliated, and issue, suspend or revoke certificates of accreditation as hereinafter provided. (14) It shall approve schools of practical nursing which shall conform to the standards, curricula, and requirements prescribed by the board, and suspend or revoke approval for violations thereof; provided, that this power shall not extend to schools operated by any board of education in this State. (15) It may consult with the Medical Society of New Jersey and the New Jersey Hospital Association with respect to any matter relating to the administration of this act and shall consult with those associations with respect to standards and curricula and any change thereof for schools of nursing. (16) It shall issue subpoenas for the attendance of witnesses and production of documents at any hearing before the board authorized by this act and any member of the board shall administer an oath or affirmation to persons appearing to give testimony at such hearings. (17) It may conduct any investigations, studies of nursing and nursing education and related matters, and prepare and issue such publications as in the judgment of the board will advance the profession of nursing and its service to the public. (18) It shall perform all other functions

which are provided in this act to be performed by it or which in the judgment of the board are necessary or proper for the administration of this act. (19) It shall from time to time prescribe rules and regulations not inconsistent with this act. (20) It shall prescribe standards and curricula for homemaker-home health aide education and training programs which a homemaker-home health aide shall complete in order to work in this State. (21) It shall review applications to provide homemaker-home health aide training programs and shall issue, suspend or revoke program approval. (22) It shall establish and maintain a registry of all individuals who have successfully completed a homemaker-home health aide training and competency evaluation program. (23) It shall prescribe standards and requirements for a competency evaluation program resulting in certification of the homemaker-home health aide, and the renewal, revocation, and suspension of that certification. (24) It shall review applications for homemaker home-health aide certification and shall issue, suspend, revoke, or fail to renew certifications and conduct investigations pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).

e. Compensation. Each member of the board shall receive $15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

4. R.S.45:14-13 is amended to read as follows:

Prescriptions filled only by pharmacists or apprentices duly supervised.

45:14-13. No person who is not a registered pharmacist of this State, or an apprentice employed in a pharmacy under the immediate personal supervision of a registered pharmacist, shall compound, dispense, fill or sell prescriptions of physicians, dentists, veterinarians, any other medical practitioners, certified nurse midwives or nurse practitioners/clinical nurse specialists, licensed or approved to write prescriptions for drugs and medicines.

5. R.S.45:14-14 is amended to read as follows:

"Prescription" defined.

45:14-14. The term "prescription" as used in R.S.45:14-13, and R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, veterinarian, other medical practitioner, a certified nurse midwife or a nurse practitioner/clinical

nurse specialist licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, veterinarian, other medical practitioner, a certified nurse midwife or a nurse practitioner/clinical nurse specialist licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and such prescriptions received by word of mouth, telephone, telegraph or other means of communication shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be filed by the pharmacist as provided for in R.S.45:14-15, but no prescription, for any narcotic drug, except as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife or nurse practitioner/clinical nurse specialist giving or transmitting the same, nor shall such prescription be renewed or refilled.

6. R.S.45:14-15 is amended to read as follows:

Prescriptions to be numbered and filed; removal of original prescriptions by board or agents.

45:14-15. The registered pharmacist compounding, dispensing, filling or selling a prescription shall place the original written prescription in a file kept for that purpose for a period of not less than five years if such period is not less then two years after the last refilling, and affix to the container in which the prescription is dispensed, a label bearing the name and complete address of the pharmacy or drug store in which dispensed, the brand name or generic name of the product dispensed unless the prescriber states otherwise on the original written prescription, the date on which the prescription was compounded and an identifying number under which the prescription is recorded in his files, together with the name of the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife or nurse practitioner/clinical nurse specialist prescribing it and the directions for the use of the prescription by the patient, as directed on the prescription of the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife or nurse practitioner/clinical nurse specialist

licensed or approved to write prescriptions. Every registered pharmacist who fills or compounds a prescription, or who supervises the filling or compounding or a prescription by a person other than a pharmacist registered in this State, shall place his name or initials on the original prescription or on the label affixed to the container in which the prescription is dispensed or in a book kept for the purpose of recording prescriptions. The Board of Pharmacy or any of its agents is hereby empowered to inspect the prescription files and other prescription records of a pharmacy and to remove from said files and take possession of any original prescription, providing, that the authorized agent removing or taking possession of an original prescription shall place in the file from which it was removed a copy certified by said person to be a true copy of the original prescription thus removed; provided further, that the original copy shall be returned by the Board of Pharmacy to the file from which it was removed after it has served the purpose for which it was removed.

C.45:11-46 Certification required.

7. a. (1) No person shall practice as a nurse practitioner/clinical nurse specialist or present, call or represent himself as a nurse practitioner/clinical nurse specialist unless certified in accordance with sections 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

(2) Nothing in this act shall be construed to limit, preclude, or otherwise interfere with the practices of other persons licensed by appropriate agencies of the State of New Jersey, provided that such duties are consistent with the accepted standards of the person's profession and the person does not represent himself as a nurse practitioner/clinical nurse specialist.

b. No person shall assume, represent himself as, or use the titles or designations "nurse practitioner," "clinical nurse specialist" or "nurse practitioner/clinical nurse specialist" or the abbreviations "N.P.," "C.N.S.," or "N.P./C.N.S." or any other title or designation which indicates or implies that he is a nurse practitioner/clinical nurse specialist unless certified pursuant to sections 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

C.45:11-47 Certification requirements.

8. a. The New Jersey Board of Nursing may issue a certification as a nurse practitioner/clinical nurse specialist to an applicant who fulfills the following requirements:

(1) Is at least 18 years of age;

(2) Is of good moral character;

(3) Is a registered professional nurse;

(4) Has successfully completed an educational program, including pharmacology, approved by the board; and

(5) Has passed a written examination approved by the board.

b. In addition to the requirements of subsection a. of this section, an applicant for renewal of a certification as a nurse practitioner/clinical nurse specialist shall present satisfactory evidence that, in the period since the certification was issued or last renewed, all continuing education requirements have been completed as required by regulations adopted by the board.

c. The board may accept, in lieu of the written examination required by paragraph (5) of subsection a. of this section, proof that an applicant for certification holds a current certification in a state which has standards substantially equivalent to those of this State.

C.45:11-48 Interim certification.

9. For 180 days following the date procedures are established by the New Jersey Board of Nursing for applying for certification under this section, the board may issue a certification as a nurse practitioner/clinical nurse specialist to an applicant who fulfills the following requirements:

a. Is at least 18 years of age;

b. Is of good moral character;

c. Is a registered professional nurse; and

d. Has been certified as a nurse practitioner, clinical nurse specialist or advanced practice nurse by a national accrediting organization, which:

(1) is approved by the board;

(2) includes pharmacology in its required curriculum; and

(3) requires successful completion of a written examination, including pharmacology, of all persons awarded its certificates.

C.45:11-49 Practice of nurse practitioner/clinical nurse specialist.

10. a. In addition to all other tasks which a registered professional nurse may, by law, perform, a nurse practitioner/clinical nurse specialist may manage specific common deviations from wellness and stabilized long-term illnesses by:

(1) initiating laboratory and other diagnostic tests; and

(2) prescribing or ordering medications and devices, as authorized by subsections b. and c. of this section.

b. A nurse practitioner/clinical nurse specialist may order medications and devices in the inpatient setting, subject to the following conditions:

(1) no controlled dangerous substances may be ordered;

(2) the order is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the nurse practitioner/clinical nurse specialist, or pursuant to the specific direction of a physician;

(3) the nurse practitioner/clinical nurse specialist authorizes the order by signing his own name, printing the name and certification number, and printing the collaborating physician's name;

(4) the physician is present or readily available through electronic communications;

(5) the charts and records of the patients treated by the nurse practitioner/clinical nurse specialist are reviewed by the collaborating physician and the nurse practitioner/clinical nurse specialist within the period of time specified by rule adopted by the State Commissioner of Health pursuant to section 13 of P.L.1991, c.377 (C.45:11-52); and

(6) the joint protocols developed by the collaborating physician and the nurse practitioner/clinical nurse specialist are reviewed, updated and signed at least annually by both parties.

c. A nurse practitioner/clinical nurse specialist may prescribe medications and devices in all other medically appropriate settings, subject to the following conditions:

(1) no controlled dangerous substances may be prescribed;

(2) the prescription is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the nurse practitioner/clinical nurse specialist, or pursuant to the specific direction of a physician;

(3) the nurse practitioner/clinical nurse specialist writes the prescription on the prescription blank of the collaborating physician, signs his name to the prescription and prints his name and certification number;

(4) the prescription is dated and includes the name of the patient and the name, address and telephone number of the collaborating physician;

(5) the physician is present or readily available through electronic communications;

(6) the charts and records of the patients treated by the nurse practitioner/clinical nurse specialist are periodically reviewed by the collaborating physician and the nurse practitioner/clinical nurse specialist; and

(7) the joint protocols developed by the collaborating physician and the nurse practitioner/clinical nurse specialist are reviewed, updated and signed at least annually by both parties.

d. The joint protocols employed pursuant to subsections b. and c. of this section shall conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51).

C.45:11-50 New Jersey Board of Nursing; additional powers and duties.

11. In addition to such other powers as it may by law possess, the New Jersey Board of Nursing shall have the following powers and duties;

a. To 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, except for those subjects of rule-making authority allocated to the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51) or to the State Commissioner of Health pursuant to section 13 of P.L.1991, c.377 (C.45:11-52);

b. To evaluate and pass upon the qualifications of candidates for certification as nurse practitioners/clinical nurse specialists;

c. To evaluate and pass upon national accreditation organizations and the holders of certificates from those organizations as necessary to award certificates pursuant to section 9 of P.L.1991, c.377 (C.45:11-48);

d. To establish specialty areas of practice for nurse practitioners/clinical nurse specialists;

e. To take disciplinary action, in accordance with P.L.1978, c.73 (C.45:1-14 et seq.) against a nurse practitioner/clinical nurse specialist who violates the provisions of this act, any regulation promulgated thereunder, or P.L.1978, c.73 (C.45:1-14 et seq.);

f. To approve the examination to be taken by candidates for certification;

g. To set standards of professional conduct for nurse practitioners/clinical nurse specialists;

h. To set fees for examinations, certification and other services consistent with section 2 of P.L.1974, c.46 (C.45:1-3.2);

i. To set standards for and approve continuing education programs; and

j. To determine whether the requirements of another state with respect to certification as a nurse practitioner/clinical nurse specialist are

substantially equivalent to those of this State in accordance with subsection c. of section 8 of P.L.1991, c.377 (C.45:11-47).

C.45:11-51 Adoption of standards.

12. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may receive and shall give due consideration to advice from the Board of Nursing and the State Board of Medical Examiners in adopting standards for the joint protocols required by subsection d. of section 10 of P.L.1991, c.377 (C.45:11-49). The standards shall be established by rule adopted by the Director of the Division of Consumer Affairs in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)

C.45:11-52 Review of charts and records treated by the nurse practitioner/clinical nurse specialist.

13. The State Commissioner of Health shall, by rule adopted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish the periods of time within which the charts and records of the patients treated by the nurse practitioner/clinical nurse specialist in an inpatient setting shall be reviewed by the nurse practitioner/clinical nurse specialist and the collaborating physician, as required by paragraph (5) of subsection b. of section 10 of P.L.1991, c.377 (C.45:11-49).

14. This act shall take effect one year following enactment, except that sections 3, 11, 12 and 13 shall take effect immediately.

Approved January 15, 1992.

CHAPTER 378

AN ACT providing for the licensure of physician assistants, amending R.S.45:9-21, R.S.45:14-13, R.S.45:14-14 and R.S.45:14-15 and supplementing Title 45 of the Revised Statutes.

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

C.45:9-27.10 Short title.

1. This act shall be known and may be cited as the "Physician Assistant Licensing Act."

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.

C.45:9-27.12 Required license.

3. a. (1) No person shall practice as a physician assistant or present, call or represent himself as a physician assistant unless that person is licensed pursuant to section 4 of this act.

(2) Nothing in this act shall be construed to limit, preclude, or otherwise interfere with the practice of any person licensed by an appropriate agency of the State of New Jersey, provided that such duties are consistent with the accepted standards of the person's profession and the person does not present himself as a physician assistant.

b. No person shall assume, represent himself as, or use the title or designation "physician assistant" or "physician assistant - certified" or the abbreviation "PA-C" or any other title or designation which indicates or implies that he is a physician assistant unless that person is licensed pursuant to section 4 of this act.

C.45:9-27.13 License requirements.

4. a. The director 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 a written examination selected and administered by the director.

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 director 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 director, in consultation with the committee, may accept, in lieu of the written 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.

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 director 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 director in accordance with section 17 of this act.

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 director 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).

C.45:9-27.16 Allowable procedures performed.

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 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 director 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.

C.45:9-27.17 Physician's responsibility for assistant.

8. a. A physician may delegate to a physician assistant under his supervision only those procedures identified in section 7 of this act.

b. Any physician who permits a physician assistant under his supervision to practice contrary to the provisions of this act shall be deemed to have engaged in professional misconduct in violation of subsection e. of section 8 of P.L.1978, c.73 (C.45:1-21) and shall be subject to disciplinary action by the board pursuant to P.L.1978, c.73 (C.45:1-14 et seq.);

c. In the performance of a medical procedure, a physician assistant shall be conclusively presumed to be the agent of the physician under whose supervision the physician assistant is performing.

C.45:9-27.18 Direct supervision required.

9. a. A physician assistant shall be under the direct supervision of a physician at all times during which the physician assistant is working in his official capacity.

b. In an inpatient setting, direct supervision shall include, but not be limited to:

(1) continuing or intermittent presence with constant availability through electronic communications;

(2) regularly scheduled review of the practice of the physician assistant; and

(3) persona! review by a physician of all charts and records of patients and countersignature by a physician of all medical

orders, including prescribing and administering medication, within 24 hours of their entry by the physician assistant.

c. In an outpatient setting, direct supervision shall include, but not be limited to:

(1) constant availability through electronic communications;

(2) regularly scheduled review of the practice of the physician assistant; and

(3) personal review by a physician of the charts and records of patients and countersignature by a physician of all medical orders, including administering medications, within seven days of their entry by the physician assistant.

C.45:9-27.19 Ordering of medication; conditions.

10. A physician assistant treating a patient in an inpatient setting may order medications, subject to the following conditions:

a. no controlled dangerous substances may be ordered;

b. the order is administered in accordance with protocols or specific physician direction pursuant to subsection b. of section 7 of this act;

c. the prescription states whether it is written pursuant to protocol or specific physician direction; and

d. the physician assistant signs his own name, prints his name and license number and prints the supervising physician's name.

C.45:9-27.20 Physician Assistant Advisory Committee.

11. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety, 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).

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 director or the Attorney General.

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.

C.45:9-27.23 Powers, duties.

14. a. The committee may have the following powers and duties, as delegated by the director:

(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 director regarding any subjects pertinent to this act.

C.45:9-27.24 Additional procedures and protocols.

15. The director may receive and shall give due consideration to advice from the board and the committee in adopting regula-

tions in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-2 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.

C.45:9-27.25 Continuing professional education.

16. a. The director, or the committee if so delegated by the director, 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 alterative method of satisfying the requirements of this act, shall be approved by the director and certified pursuant to procedures established for that purpose.

b. The director may, at his 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 director, be applicable to the continu-

ing education requirement for the following biennial renewal period but shall not be applicable thereafter.

C.45:9-27.26 Duties of the Director.

17. The director shall, in addition to such other powers and duties as he 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 director 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.).

C.45:9-27.27 Authority of director.

18. The provisions of the uniform enforcement law, P.L.1978, c.73 (C.45:1-14 et seq.), shall apply to this act and the director shall be deemed to have all authority granted to any board under that act. The authority of the director may be delegated to the committee at the discretion of the director.

C.45:9-27.28 Fees for licenses.

19. a. The director shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services provided by the director 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 director 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 director, 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 director pursuant to subsection a. of this section to the extent as is necessary to defray all proper expenses incurred by the committee, the director 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 director shall be paid to the director 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 director such sums as shall be necessary to implement and effectuate the provisions of this act.

20. R.S.45:9-21 is amended to read as follows:

Certain persons and practices excepted from operation of chapter.

45:9-21. The prohibitory provisions of this chapter shall not apply to the following:

a. A commissioned surgeon or physician of the regular United States Army, Navy, or Marine hospital service while so commissioned and actively engaged in the performance of his official duties. This exemption shall not apply to reserve officers of the United States Army, Navy or Marine Corps, or to any officer of the National Guard of any state or of the United States;

b. A lawfully qualified physician or surgeon of another state taking charge temporarily, on written permission of the board, of the practice of a lawfully qualified physician or surgeon of this State during his absence from the State, upon written request to the board for permission so to do. Before such permission is granted by the board and before any person may enter upon such practice he must submit proof that he can fulfill the requirements demanded in the other sections of this article relating to applicants for admission by examination or indorsement from another state. Such permission may be granted for a period of not less than two weeks nor more than four months upon payment of a fee of $50. The board in its

discretion may extend such permission for further periods of two weeks to four months but not to exceed in the aggregate one year;

c. A physician or surgeon of another state of the United States and duly authorized under the laws thereof to practice medicine or surgery therein, if such practitioner does not open an office or place for the practice of his profession in this State;

d. A person while actually serving as a member of the resident medical staff of any legally incorporated charitable or municipal hospital or asylum approved by the board. Hereafter such exemption of any such resident physician shall not apply with respect to any individual after he shall have served as a resident physician for a total period of five years;

e. The practice of dentistry by any legally qualified and registered dentist;

f. The ministration to, or treatment of, the sick or suffering by prayer or spiritual means, whether gratuitously or for compensation, and without the use of any drug material remedy;

g. The practice of optometry by any legally qualified and registered optometrist;

h. The practice of podiatry by any legally licensed podiatrist;

i. The practice of pharmacy by a legally licensed and registered pharmacist of this State, but this exception shall not be extended to give to said licensed pharmacist the right and authority to carry on the business of a dispensary, unless the dispensary shall be in charge of a legally licensed and registered physician and surgeon of this State;

j. A person claiming the right to practice medicine and surgery in this State who has been practicing therein since before July 4, 1890, if said right or title was obtained upon a duly registered diploma, of which the holder and applicant was the lawful possessor, issued by a legally chartered medical institution which, in the opinion of the board, was in good standing at the time the diploma was issued;

k. A podiatrist, professional nurse, or a registered physical therapist, masseur, while operating in each particular case under the specific direction of a regularly licensed physician or surgeon. This exemption shall not apply to such assistants of persons who are licensed as osteopaths, chiropractors, optometrists or other practitioners holding limited licenses;

l. A person while giving aid, assistance or relief in emergency or accident cases pending the arrival of a regularly licensed physician, or surgeon or under the direction thereof;

m. The operation of a bio-analytical laboratory by a licensed bio-analytical laboratory director, or any person working under the direct and constant supervision of a licensed bio-analytical laboratory director;

n. Any employee of a State or county institution holding the degree of M.D. or D.O., regularly employed on a salary basis on its medical staff or as a member of the teaching or scientific staff of a State agency, may apply to the State Board of Medical Examiners of New Jersey and may, in the discretion of said board, be granted exemption from the provisions of this chapter; provided said employee continues as a member of the medical staff of a State agency or county institution or of the teaching or scientific staff of a State agency and does not conduct any type of private medical practice;

o. The practice of chiropractic by any legally licensed chiropractor; or

p. The practice of a physician assistant in compliance with the provisions of P.L.1991, c.378 (C.45:9-27.10 et al.).

21. R.S.45:14-13 is amended to read as follows:

Prescriptions filled only by pharmacists or apprentices duly supervised.

45:14-13. No person who is not a registered pharmacist of this State, or an apprentice employed in a pharmacy under the immediate personal supervision of a registered pharmacist, shall compound, dispense, fill or sell prescriptions of physicians, dentists, veterinarians, any other medical practitioners, certified nurse midwives, nurse practitioners/clinical nurse specialists or physician assistants, licensed or approved to write prescriptions for drugs and medicines.

22. R.S.45:14-14 is amended to read as follows:

"Prescription" defined.

45:14-14. The term "prescription" as used in R.S.45:14-13, and R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, veterinarian, other medical practitioner, a certified nurse midwife, a nurse practitioner/clinical nurse specialist or a physician assistant, licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other

means of communication by a duly licensed physician, dentist, veterinarian, other medical practitioner, a certified nurse midwife, a nurse practitioner/clinical nurse specialist or a physician assistant, licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and such prescriptions received by word of mouth, telephone, telegraph or other means of communication shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be filed by the pharmacist as provided for in R.S.45:14-15, but no prescription, for any narcotic drug, except as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife, nurse practitioner/clinical nurse specialist or a physician assistant giving or transmitting the same, nor shall such prescription be renewed or refilled.

23. R.S.45:14-15 is amended to read as follows:

Prescriptions to be numbered and filed; removal of original prescriptions by board or agents.

45:14-15. The registered pharmacist compounding, dispensing, filling or selling a prescription shall place the original written prescription in a file kept for that purpose for a period of not less than five years if such period is not less then two years after the last refilling, and affix to the container in which the prescription is dispensed, a label bearing the name and complete address of the pharmacy or drug store in which dispensed, the brand name or generic name of the product dispensed unless the prescriber states otherwise on the original written prescription, the date on which the prescription is recorded in his files, together with the name of the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife, nurse practitioner/clinical nurse specialist or physician assistant prescribing it and the directions for the use of the prescription by the patient, as directed on the prescription of the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife, nurse practitioner/clinical nurse specialist or physician assistant, licensed or approved to write prescriptions. Every registered pharmacist who fills or compounds a prescription, or who supervises the filling or compounding or a prescription by a person other than a pharmacist registered in this State, shall place his name or initials on the

original prescription or on the label affixed to the container in which the prescription is dispensed or in a book kept for the purpose of recording prescriptions. The Board of Pharmacy or any of its agents is hereby empowered to inspect the prescription files and other prescription records of a pharmacy and to remove from said files and take possession of any original prescription, providing, that the authorized agent removing or taking possession of an original prescription shall place in the file from which it was removed a copy certified by said person to be a true copy of the original prescription thus removed; provided further, that the original copy shall be returned by the Board of Pharmacy to the file from which it was removed after it has served the purpose for which it was removed.

24. This act shall take effect on the 180th day after the date of enactment, but sections 11, 12, 13, 14, 15 and 17 shall take effect immediately.

Approved January 15, 1992.

CHAPTER 379

AN ACT concerning "special" retirement benefits under the State Police Retirement System of New Jersey and amending P.L.1965, c.89.

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

1. Section 27 of P.L.1965, c.89 (C.53:5A-27) is amended to read as follows:

C.53:5A-27 "Special" retirement.

27. a. Should a member resign after having established 25 years of creditable service as a full-time commissioned officer, non-commissioned officer or trooper of the Division of State Police or a member appointed to the State Police under section 3 of P.L.1983, c.403 (C.39:2-9.3), he may elect "special" retirement; provided that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the

payment provided in section 26, a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 65% of his final compensation, plus 1% of his final compensation multiplied by the number of years of creditable service over 25, but not over 30.

The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified, as the board finds advisable.

b. Upon the receipt of proper proofs of the death of such a retired member, there shall be paid to the member's beneficiary an amount equal to one-half of the final compensation received by the member.

C.53:5A-34.1 Liability determined by actuary.

2. The actuary for the State Police Retirement System shall determine for the valuation period of the retirement system in which this act takes effect the liability of the retirement system for the increased pension benefits provided under this act for all participants of the retirement system as of the last day of the valuation period. This liability shall be added to the unfunded accrued liability of the retirement system and shall be paid by the State in the same manner and over the remaining time period provided for the State's unfunded accrued liability under section 34 of P.L.1965, c.89 (C.53:5A-34). The actuary shall determine annually thereafter the liability of the retirement system for the increased pension benefits provided under this act for new participants, which shall be included in the normal contribution paid by the State. The State shall pay the cost of the actuarial work to determine the additional liabilities of the retirement system for the benefits under this act.

3. This act shall take effect immediately and shall be applicable to any member retiring on or after the effective date of this act.

Approved January 15, 1992.

CHAPTER 380

AN ACT concerning accidental death benefits under the State Police Retirement System of New Jersey, amending P.L.1965, c.89, and supplementing P.L.1958, c.143 (C.43:3B-1 et seq.).

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

1. Section 14 of P.L.1965, c.89 (C.53:5A-14) is amended to read as follows:

C.53:5A-14 Accidental death benefits; payment of health insurance premiums.

14. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the Division of State Police within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within 5 years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to the surviving spouse a pension of 70% of final compensation for the use of that spouse and children of the deceased, to continue for as long as the person qualifies as a "surviving spouse" for the purposes of this act; if there is no surviving spouse or in case the spouse dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

If there is no surviving spouse or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving spouse, child or parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

d. In no case shall the death benefits provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection a. or b., there shall also be paid in one sum to the member's beneficiary, an amount equal to 3 1/2 times final compensation.

f. (Deleted by amendment.)

g. (Deleted by amendment.)

h. In addition to the foregoing benefits, the State shall pay to the member's employer-sponsored health insurance program all health insurance premiums for the coverage of the member's surviving spouse and surviving children.

C.43:3B-8.3 Applicability of COLA.

2. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not apply to section 14 of P.L.1965, c.89 (C.53:5A-14), as amended by section 1 of this amendatory and supplementary act, and the annual cost of living adjustment received by surviving spouses under P.L.1958, c.143 (C.43:3B-1 et seq.), as amended and supplemented by P.L.1969, c.169, shall be calculated as of the date of death of the member of the retirement system.

3. This act shall take effect immediately.

Approved January 15, 1992.

CHAPTER 381

AN ACT concerning regulatory reform of the solid waste collection industry, and amending, supplementing and repealing parts of the statutory law.

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

C.48:13A-7.1 Short title.

1. Sections 1 through 23 inclusive of this amendatory and supplementary act shall be known and may be cited as the "Solid Waste Collection Regulatory Reform Act."

C.48:13A-7.2 Findings, declarations.

2. The Legislature finds and declares that the collection of solid waste is an activity thoroughly affected with the public interest; that the health, safety and welfare of the people of this

State require efficient and reasonable solid waste collection services; and that efficient solid waste collection services at competitive rates will more likely be achieved if the solid waste collection industry is under the supervision of, but not subject to traditional public utility rate regulation by, the Board of Public Utilities.

The Legislature further finds and declares that it is imperative that the State ensure the economic viability and competitiveness of the solid waste collection industry in order to safeguard the integrity of the State's long-term solid waste management strategy; that it is equally imperative to safeguard the interests of consumers as well as the interests of those providing solid waste collection services; that to provide for ratepayer and consumer protection it is necessary to foster competition within the industry and to establish a responsible State supervisory role to ensure safe, adequate and proper solid waste collection service at competitive rates; and that to achieve these ends in the most efficient and reasonable manner, it is necessary to establish procedures for regulatory reform and the eventual termination of traditional public utility rate regulation of the solid waste collection industry.

The Legislature further finds and declares that the Legislature through enactment of P.L.1983, c.392 (C.13:1E-126 et seq.) has established a licensing system which is designed to prevent persons with criminal backgrounds from engaging in the solid waste collection business, thereby promoting free and open competition within the solid waste collection industry; and that terminating traditional public utility rate regulation of the solid waste collection industry can be achieved without compromising the State's role in protecting the public interest.

The Legislature therefore determines that it is in the public interest to establish procedures for the eventual termination of public utility rate regulation of solid waste collectors while at the same time maintaining Board of Public Utilities supervision over the solid waste collection industry.

C.48:13A-7.3 Findings, declarations.

3. As used in sections 1 through 23 of P.L.1991, c.381 (C.48:13A-7.1 et al.):

"Applicant" means any person seeking to obtain an initial certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9) in order to provide solid waste collection services in this State.

"Board" means the Board of Public Utilities.

"Materials recovery" means the processing and separation of solid waste utilizing manual or mechanical methods for the purposes of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

"Materials recovery facility" means a transfer station or other authorized solid waste facility at which nonhazardous solid waste, which material is not source separated by the generator thereof prior to collection, is received for onsite processing and separation utilizing manual or mechanical methods for the purposes of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

"Septic waste" means pumpings from septic tanks and cesspools, but shall not include wastes from a sewage treatment plant.

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

"Solid waste collection" means the activity related to pickup and transportation of solid waste from its source or location to an authorized solid waste facility, but does not include activity related to the pickup, transportation or unloading of septic waste.

"Solid waste collection services" means the services provided by persons engaging in the business of solid waste collection.

"Solid waste collector" means a person engaged in the collection of solid waste and holding a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9).

"Solid waste container" means a receptacle, container or bag suitable for the depositing of solid waste.

"Solid waste disposal" means the storage, treatment, utilization, processing, or final disposal of solid waste.

"Solid waste disposal services" means the services provided by persons engaging in the business of solid waste disposal.

"Solid waste facilities" mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of P.L.1970 c.39 (C.13:1E-1 et seq.) and P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act, includ-

ing transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Transition year" means any of the four successive 12-month periods commencing on the effective date of P.L.1991, c.381 (C.48:13A-7.1 et al.).

C.48:13A-7.4 Fees.

4. a. Every solid waste collector shall pay an annual fee of $100.00 to cover the costs of supervising the solid waste collection industry. The fee imposed pursuant to this section shall be in addition to the annual assessment made by the board pursuant to P.L.1968, c.173 (C.48:2-59 et seq.).

b. The provisions of section 1 of P.L.1959, c.43 (C.48:2-56) or any rules or regulations adopted pursuant thereto to the contrary notwithstanding, the board may charge and collect a filing fee of up to $500.00 per applicant from persons seeking to obtain a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9).

C.48:13A-7.5 Just and reasonable rates and charges.

5. The board may direct any applicant to furnish proof that the rates or charges to be received for solid waste collection services do not exceed just and reasonable rates or charges. Should the board find, subsequent to the issuance of a certificate of public convenience and necessity, that the rates or charges received for solid waste collection services are excessive, then it may order the solid waste collector charging such excessive rates or charges to make an adjustment in the tariff or contract to a sum which shall result in just and reasonable rates or charges.

C.48:13A-7.6 Review of rate and charges.

6. a. The board, upon the adoption of the rules and regulations required pursuant to section 19 of P.L.1991, c.381 (C.48:13A-7.19), may review the rates or charges of any solid waste collector pursuant to the provisions of section 20 of P.L.1991, c.381 (C.48:13A-7.20) in accordance with the criteria and procedures established pursuant to section 19 of P.L.1991, c.381 (C.48:13A-7.19) to determine whether the rates or charges received for solid waste collection services exceed those rates or charges which would result from effective competition.

b. Should the board find, pursuant to the provisions of section 20 of P.L.1991, c.381 (C.48:13A-7.20), that the rates or charges received for solid waste collection services are excessive, then it may order the solid waste collector charging such excessive rates or charges to make an adjustment in the tariff or contract to a sum which shall result in competitive rates or charges. In issuing this order, the board may direct the solid waste collector to refund, at an interest rate to be determined by the board, the difference between the excessive rates or charges and the competitive rates or charges ordered by the board as of the date of the notice of the board's intention to review the rates or charges received by that solid waste collector.

c. Nothing contained in sections 9 or 10 of P.L.1991, c.381 (C.48:13A-7.9 or 48:13A-7.10) shall be construed to interfere with the implementation of this section by the board.

C.48:13A-7.7 Filing revised tariff sheets.

7. a. Any solid waste collector proposing to extend solid waste collection services into any area where that person is not actively engaged in solid waste collection, and the proposed extension of services is not set forth in a tariff previously filed with and accepted by the board, shall file with the board appropriate revised tariff sheets which reflect the proposed changes in areas to be served.

b. Any solid waste collector proposing to expand his solid waste collection business for the purpose of providing new solid waste collection services, and the proposed expansion of services is not set forth in a tariff previously filed with and accepted by the board, shall file with the board appropriate revised tariff sheets which reflect the proposed changes in services to be provided.

c. Should the board find, subsequent to its review of a revised tariff, that the rates or charges set forth therein are excessive, then it may order the solid waste collector charging such excessive rates or charges to make an adjustment in the tariff or contract to a sum which shall result in just and reasonable rates or charges.

C.48:13A-7.8 Conditions for the adjustment of rates.

8. a. Any increase or decrease in the disposal rates or charges received at authorized solid waste facilities in this State shall be automatically adjusted for in the uniform tariff for solid waste collection established by the Board of Public Utilities in rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(1) Any solid waste collector seeking an adjustment to the rates or charges set forth in the uniform tariff solid waste disposal charges shall file with the board appropriate revised tariff sheets which reflect changes in the disposal rates or charges received at an authorized solid waste facility.

(2) No adjustment in the disposal rate shall be implemented until such time as revised tariff sheets and verification forms have been filed with the board. Every solid waste collector shall file these documents with the board within five days of any decrease in the disposal rates or charges received at an authorized solid waste facility.

b. (1) Any net savings in the payment of disposal rates or charges at authorized solid waste facilities realized by a solid waste collector due to decreased waste flows resulting from materials recovery, or the revenues generated thereby, may be adjusted for in the rates or charges set forth in the uniform tariff solid waste disposal charges.

(2) Any solid waste collector seeking an adjustment to the rates or charges set forth in the uniform tariff solid waste disposal charges shall file with the board appropriate revised tariff sheets which reflect net savings in the payment of disposal rates or charges at an authorized solid waste facility. No adjustment in the disposal rate shall be implemented until such time as revised tariff sheets and verification forms have been filed with the board.

c. Every solid waste collector shall file with the board rates or charges for solid waste collection services conforming to the uniform tariff for solid waste collection established by the board. Every person engaged in the business of solid waste collection in this State shall be subject to the provisions of this subsection and shall file with the board a uniform tariff.

C.48:13A-7.9 Rules, regulations; schedule of rate bands in transition.

9. The provisions of any other law, or of any rule, regulation or administrative order adopted or issued pursuant thereto, to the contrary notwithstanding, during the 48-month transition from economic regulation to the termination of Board of Public Utilities rate regulation of the solid waste collection industry, the rates or charges that may be imposed by solid waste collectors for solid waste collection services in this State shall be determined in accordance with the provisions of P.L.1991, c.381 (C.48:13A-7.1 et al.).

a. The Board of Public Utilities shall establish, in rules and regulations adopted pursuant to the "Administrative Procedure Act," solid waste collection rate bands governing the rates or

charges that may be imposed by solid waste collectors for solid waste collection services in this State during each transition year.

The solid waste collection rate bands shall provide for the maximum adjustment that any solid waste collector may make to the rates or charges set forth as solid waste collection service charges in the uniform tariff filed with and accepted by the board after the effective date of this amendatory and supplementary act for any residential, commercial, industrial or institutional customer during a specified transition year.

b. The solid waste collection rate bands shall conform to the following schedule:

(1) During the first transition year, the rates or charges set forth as solid waste collection service charges in the uniform tariff may be adjusted by an amount within a rate band the upper and lower limits of which shall not exceed the sum of 5% plus the annual percentage change in the Consumer Price Index, multiplied by the rates or charges;

(2) During the second transition year, the rates or charges set forth as solid waste collection service charges in the uniform tariff may be adjusted by an amount within a rate band the upper and lower limits of which shall not exceed the sum of 5% plus the annual percentage change in the Consumer Price Index, plus the sum authorized pursuant to paragraph (1), multiplied by the rates or charges;

(3) During the third transition year, the rates or charges set forth as solid waste collection service charges in the uniform tariff may be adjusted by an amount within a rate band the upper and lower limits of which shall not exceed the sum of 10% plus the annual percentage change in the Consumer Price Index, plus the sum authorized pursuant to paragraph (2), multiplied by the rates or charges; and

(4) During the fourth transition year, the rates or charges set forth as solid waste collection service charges in the uniform tariff may be adjusted by an amount within a rate band the upper and lower limits of which shall not exceed the sum of the annual percentage change in the Consumer Price Index plus the sum authorized pursuant to paragraph (3), multiplied by the rates or charges.

Any adjustments to the uniform tariff authorized pursuant to this subsection may be made on an individual customer basis.

For the purposes of this subsection, "Consumer Price Index" means 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.

c. Prior to the close of each transition year, the board shall, by order in writing, revise the solid waste collection rate bands for the forthcoming transition year to conform to the schedule established pursuant to subsection b. of this section for the pricing of solid waste collection services.

C.48:13A-7.10 Rate adjustments by collector; report filing; customer notice.

10. a. Upon filing with the Board of Public Utilities a uniform tariff, any solid waste collector may adjust the rates or charges set forth as solid waste collection service charges in the uniform tariff as provided in the solid waste collection rate bands established pursuant to section 9 of P.L.1991, c.381 (C.48:13A-7.9).

b. (1) Any solid waste collector may adjust the rates or charges set forth in the uniform tariff filed with the board as provided in the solid waste collection rate bands unless those rates or charges have been expressly rejected by the board.

(2) Should the board find, subsequent to its review of a uniform tariff filed by a solid waste collector and the adjusted rates or charges imposed by that solid waste collector, that the rates or charges imposed by that solid waste collector are excessive, then it may order the solid waste collector to refund, at an interest rate to be determined by the board, any difference between the adjusted rates or charges imposed by the solid waste collector and the rates or charges accepted by the board following readjustment of the uniform tariff and the solid waste collection rate bands governing the rates or charges that may be imposed by the solid waste collector.

c. (1) During the first and second transition years, every solid waste collector shall, at least once every six months, file with the board a report describing the amount and frequency of variation from the rates or charges set forth in the uniform tariff for each class of residential, commercial, industrial or institutional customers. The report shall include the percentage of each class of solid waste collection services for which adjustments have been made, and the specified percentage increase or decrease to the rates or charges made to that customer class.

(2) During the third and fourth transition years, every solid waste collector shall, at least once every 12 months, file with the board a report describing the amount and frequency of variation from the rates or charges set forth in the uniform tariff for each class of residential, commercial, industrial or institutional customers. The report shall include the percentage of each class of solid waste collection services for which adjustments have been

made, and the specified percentage increase or decrease to the rates or charges made to that customer class.

d. Whenever a solid waste collector makes an adjustment to the uniform tariff pursuant to this section, the solid waste collector shall notify every customer to be affected thereby at least 10 days prior to the implementation of that adjustment. The solid waste collector shall attach a copy of the applicable rate schedule to the notice.

C.48:13A-7.11 Customer notices and bill of rights.

11. Every solid waste collector shall notify customers at least once every year that solid waste collection services in this State are available on a competitive basis, as provided in the customer bill of rights established by the board in rules and regulations adopted pursuant to the "Administrative Procedure Act," and shall provide every customer with a copy thereof.

C.48:13A-7.12 Uniform tariff rates; exigent.

12. No solid waste collector may, except in cases of hardship or exigent circumstances, or in the case of significant increases in energy costs, as determined by the board, petition the board for changes in the rates or charges set forth as solid waste collection service charges in the uniform tariff previously filed with and accepted by the board.

C.48:13A-7.13 Publication of rate schedules by the Board.

13. The Board of Public Utilities shall, within 12 months of the effective date of this amendatory and supplementary act and at least once every six months thereafter, publish the rate schedule set forth in the uniform tariff of every solid waste collector serving a particular region of the State in at least one newspaper of general circulation within that region and at least one newspaper of statewide circulation. The rate schedule shall be accompanied by a notice advising the public of the current solid waste collection rate band in effect on that date and stating that any difficulties in securing solid waste collection services, or any complaints pertaining to the adequacy of existing solid waste collection services, may be referred to the board.

C.48:13A-7.14 Board of Public Utilities reports; contents

14. a. The Board of Public Utilities shall, within 30 months of the effective date of this amendatory and supplementary act, submit a preliminary report to the Governor and the Legislature concerning the implementation of P.L.1991, c.381 (C.48:13A-7.1 et al.).

The board shall provide interested parties and the general public with an opportunity to submit written comments on the contents of the preliminary report in a manner to be determined by the board.

b. The board shall, within 36 months of the effective date of this amendatory and supplementary act, submit a final report to the Governor and the Legislature concerning the implementation of P.L.1991, c.381 (C.48:13A-7.1 et al.).

The final report shall include, but need not be limited to:

(1) An evaluation of the success of solid waste collection rate bands in promoting competition within the solid waste collection industry while at the same time ensuring safe, adequate and proper solid waste collection services at competitive rates;

(2) An evaluation of the success of solid waste collection rate bands in eliminating predatory pricing and other anticompetitive activities within the solid waste collection industry;

(3) An evaluation of the success of uniform specifications for municipal solid waste collection contracts in promoting competition within the solid waste collection industry while at the same time ensuring safe, adequate and proper municipal solid waste collection services at competitive rates;

(4) An assessment of the economic viability and competitiveness of the solid waste collection industry and a recommendation, as warranted by the circumstances, as to whether the termination of rate regulation of the solid waste collection industry by the board will promote meaningful competition and ensure efficient solid waste collection services at competitive rates; and

(5) A summary of any written comments submitted by interested parties or the general public on the contents of the preliminary report required pursuant to subsection a. of this section.

C.48:13A-7.15 Deregulation or rates by Board of Public Utilities; conditions.

15. The rates or charges imposed by solid waste collectors, or fees, rates or charges for solid waste collection services provided by persons engaged in the business of solid waste collection in this State shall not be subject to the regulation of the Board of Public Utilities, except as provided in section 20 of P.L.1991, c.381 (C.48:13A-7.20). Nothing herein provided shall be construed to limit the authority of the board with respect to the supervision of the solid waste collection industry.

C.48:13A-7.16 Provision of annual report; failure to comply.

16. a. The board may compel any person engaged in the business of solid waste collection or otherwise providing solid waste collection services to furnish and file with the board a consolidated annual report or other documents as may be necessary to enable the board to administer its duties as prescribed by law and this act.

b. Should any person engaged in the business of solid waste collection or otherwise providing solid waste collection services fail or refuse to comply with any provision of this section, the board may revoke or suspend the certificate of public convenience and necessity issued to that person.

C.48:13A-7.17 Provision of records and other documents; failure to comply.

17. a. The board may compel any solid waste collector to furnish and file with the board any records, including, but not limited to, manifests, origin and destination forms, customer lists, financial or operational information, contracts, books, accounts and records of affiliated business concerns, including any affiliated or parent corporation or organization, or any wholly or partially owned subsidiary thereof, directly or indirectly involved therewith, or having a direct or indirect financial interest in the solid waste collection services provided by the solid waste collector, and all financial transactions between these parties related to the solid waste collection services provided by the solid waste collector, and any other documents related to solid waste collection or solid waste disposal activities, at any time or place in order to determine compliance with the provisions of this act or P.L.1970, c.40 (C.48:13A-1 et seq.) or any rule, regulation or administrative order adopted or issued pursuant thereto, and to enable the board to administer its duties as prescribed by law and this act.

b. Should any solid waste collector fail or refuse to comply with any provision of this section, the board may revoke or suspend the certificate of public convenience and necessity issued to that person.

C.48:13A-7.18 Extension of services; failure to comply.

18. a. Should any person engaged in the solid waste collection business fail or refuse to complete, execute or perform any contract or agreement obligating such person to provide solid waste collection services, the board may order any solid waste collector to extend solid waste collection services into any area where the collection of solid waste has been discontinued.

b. Should the board find that any class of customers within a specific geographic area is unable to secure solid waste collection services, or that any person seeking a specific type of solid waste collection service is unable to secure solid waste collection services, or that the board has received complaints pertaining to the adequacy of existing solid waste collection services, the board may order any solid waste collector to extend solid waste collection services to that geographic area, class of customers or person.

c. (1) Prior to the effective date of section 15 of P.L.1991, c.381 (C.48:13A-7.15), should the board order any solid waste collector to extend solid waste collection services to any area, class of customers or person, the rates and charges for the extended solid waste collection services shall be determined in accordance with the provisions of sections 7, 9 and 10 of P.L.1991, c.381 (C.48:13A-7.7, 48:13A-7.9 and 48:13A-7.10).

(2) After the effective date of section 15 of P.L.1991, c.381 (C.48:13A-7.15), should the board order any solid waste collector to extend solid waste collection services to any area, class of customers or person, the rates and charges for the extended solid waste collection services shall be determined by the person ordered by the board to extend those services.

d. Should any solid waste collector fail or refuse to comply with any provision of this section, the board may revoke or suspend the certificate of public convenience and necessity issued to that person.

C.48:13A-7.19 Criteria for determining effective competition.

19. Within 180 days of the effective date of this amendatory and supplementary act, the Board of Public Utilities shall establish, in rules and regulations adopted pursuant to the provisions of the "Administrative Procedure Act," the criteria and procedures to be utilized by the board in making a determination of effective competition.

a. The board shall utilize the criteria in making a determination as to whether a lack of effective competition is likely to occur if the board approves a transaction pursuant to the provisions of R.S.48:3-7, or in making a determination as to whether a lack of effective competition exists within a specific geographic area, class of customers or type of solid waste collection services.

b. The criteria shall include, but need not be limited to, the following:

(1) the existence of barriers to entry of persons seeking to provide solid waste collection services within a specific geographic area, class of customers or type of service;

(2) the structure of the solid waste collection industry within a specific geographic area, class of customers or type of service, including the number of participating solid waste collectors, the intensity of competition, or the concentration in ownership of collection or haulage vehicles or other equipment; and

(3) the existence of patterns of anti-competitive behavior by persons providing solid waste collection services within a specific geographic area, class of customers or type of service.

c. The board shall utilize the criteria in conjunction with generally accepted economic indicators which shall be identified in rules and regulations adopted pursuant to the provisions of the "Administrative Procedure Act." These indicators may include an evaluation of capital investment costs, economies of scale, differentiation of service, technological barriers facing entrants, financial requirements, including capital entry or exit costs, regulatory barriers, and business characteristics, including number of customers, customer turnover, annual gross revenues, class or type of service provided, and annual net income.

d. The board shall establish procedures to be utilized in reviewing the rates or charges received by a solid waste collector pursuant to sections 6 and 20 of P.L.1991, c.381 (C.48:13A-7.6 and 48:13A-7.20).

C.48:13A-7.20 Review of collector's excessive rates; time; orders.

20. a. (1) Whenever, on the basis of available information, the board has reasonable grounds for belief in the existence of facts warranting further investigation that a solid waste collector is charging rates or charges for solid waste collection services which exceed rates or charges that would have resulted from effective competition, the board shall transmit a notice to the solid waste collector stating that the board intends to review the rates or charges received by that solid waste collector. The notice shall enumerate the reasons for the review and the criteria utilized by the board in making a determination that a lack of effective competition exists.

(2) The board may, within 30 days following the date of notice, request that the solid waste collector submit any additional information needed to assist in its review. In the event that additional information is requested, the board shall outline, in writing, why it deems such information necessary to make an informed determination on whether the collector is charging rates or charges for solid waste collection services which exceed rates or charges that would have resulted from effective competition. The board shall complete its review of the rates or charges received by the solid waste collector no later than 60 days following the date of the notice, except if the board requests additional information from the solid waste collector, the board shall complete its review within 60 days of receipt of all requested information.

(3) Upon completing its review, the board may, after hearing, by order in writing, issue an order to the solid waste collector charging such excessive rates or charges to reduce the rates or

charges received for solid waste collection services to a sum which would result from effective competition.

b. The board may issue an order to any person engaged in the business of solid waste collection to reduce the rates or charges received for solid waste collection services to a sum which would result from effective competition if the following conditions are met:

(1) the board has determined that a lack of effective competition exists within a specific geographic area, or within a specific class of customers or type of solid waste collection services; and

(2) the board has determined that the lack of effective competition has resulted in rates or charges received for solid waste collection services which exceed rates or charges that would have resulted from effective competition.

In making a determination pursuant to paragraph (1) of this subsection, the board shall not consider technical or economic factors that are not directly related to the provision of solid waste collection services.

In making a determination pursuant to paragraph (2) of this subsection, the board shall compare the rates or charges received by the solid waste collector charging such excessive rates or charges with those received by other solid waste collectors for solid waste collection services within a comparable geographic area, class of customers or type of service. The board, if it deems that such information is necessary, may review the revenues, income or expenditures of the solid waste collector charging such excessive rates or charges, except that the board shall not consider any revenues, income or expenditures derived from recycling activities.

Any order issued by the board pursuant to this subsection shall expire no later than the first day of the seventh month following the effective date of the order, except that an order may remain in effect pending the adjudication of a contested case.

c. In issuing an order pursuant to subsection b. of this section, the board may:

(1) direct the solid waste collector to refund, at an interest rate to be determined by the board, the difference between the excessive rates or charges and the competitive rates or charges ordered by the board as of the date of the notice of the board's intention to review the rates or charges received by that solid waste collector;

(2) take other actions pursuant to law as may be needed to restore or promote effective competition within the affected geographic area, class of customers or type of service; or

(3) make recommendations as to the steps needed to restore or promote effective competition within the affected geographic area, class of customers or type of service.

d. (1) No later than 6 months after issuing an order pursuant to subsection b. of this section, the board shall review the actions taken pursuant thereto and make a determination as to whether a lack of effective competition still exists within the affected geographic area, class of customers or type of service, or whether the continued lack of effective competition has resulted in rates or charges received for solid waste collection services which exceed rates or charges that would have resulted from effective competition.

(2) The board shall, upon a determination that effective competition exists within the affected geographic area, class of customers or type of service, rescind any such order and cease any further rate setting activity with respect to the solid waste collector subject to that order.

(3) The board may, upon a written determination that a lack of effective competition still exists within the affected geographic area, class of customers or type of service, and that the continued lack of effective competition has resulted in rates or charges received for solid waste collection services which exceed rates or charges that would have resulted from effective competition, issue a new order pursuant to subsection b. of this section and continue rate setting activity with respect to the solid waste collector subject to that order as provided in subsection c. of this section.

C.48:13A-7.21 Solid Waste Enforcement Fund.

21. a. There is created in the Board of Public Utilities a special nonlapsing fund to be known as the "Solid Waste Enforcement Fund." All monies from penalties collected by the board pursuant to section 13 of P.L.1970, c.40 (C.48:13A-12) shall be deposited in the fund.

b. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, monies in the fund shall be utilized exclusively by the Division of Solid Waste in the Board of Public Utilities for enforcement and implementation of the provisions of P.L.1970, c.40 (C.48:13A-1 et seq.) and P.L.1991, c.381 (C.48:13A-7.1 et al.).

C.48:13A-7.22 Rules, regulations.

22. The Board of Public Utilities shall establish, in rules and regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), uniform bid specifications for municipal solid waste collection contracts.

C.48:13A-7.23 Procedures for review of charges per container under municipal contracts.

23. a. (1) Whenever the governing body of a municipality adopts an ordinance to provide for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of R.S.40:66-5, the governing body shall transmit to the Board of Public Utilities, by certified mail and within 90 days of the effective date of the ordinance, a copy of the proposed rate schedule and the contract awarded pursuant to subsection a. of R.S.40:66-4. The board, within 60 days of receipt of the proposed rate schedule and contract and if requested to do so by the municipality or the relevant solid waste collector, as the case may be, may review these documents to determine whether the solid waste charges are equitable and to accept, reject or modify the rate schedule. If the board finds the solid waste charges to be equitable, the board shall accept the rate schedule and contract and issue an appropriate order therefor. In issuing this order, the board shall be exempt from the provisions of R.S.48:2-21.

(2) Should the board find, subsequent to the issuance of any order pursuant to this subsection, that the rates or charges received for the collection of solid waste contained within a contract entered into prior to the effective date of that order require adjustment, then it may order the person charging these rates or charges to make an adjustment in the contract to a sum which shall result in equitable rates or charges. In issuing this order, the board shall be exempt from the provisions of R.S.48:2-21.

b. (1) The board may issue an appropriate order establishing an equitable rate schedule based on the number of solid waste containers processed per household for the solid waste collection tariffs of persons engaging in private solid waste collection services in any municipality in which solid waste collection services are contracted for and provided on an individual household basis. In issuing this order, the board shall be exempt from the provisions of R.S.48:2-21.

(2) Any person engaged in private solid waste collection services in this State and utilizing a rate schedule based on the number of solid waste containers processed per household as provided in this subsection may provide customers with the opportunity to purchase, on a prepaid basis, one or more solid waste containers, or a voucher or sticker therefor, to facilitate the provision of solid waste collection services on a per container basis.

24. Section 1 of P.L.1970, c.40 (C.48:13A-1) is amended to read as follows:

C.48:13A-1 Short title.

1. This act shall be known and may be cited as the "Solid Waste Utility Control Act."

25. Section 2 of P.L.1970, c.40 (C.48:13A-2) is amended to read as follows:

C.48:13A-2 Findings, declarations.

2. The Legislature finds and declares that the disposal of solid waste is a matter of grave concern to all citizens and is an activity thoroughly affected with the public interest; that the health, safety and welfare of the people of this State require efficient and reasonable solid waste disposal service; that safe, adequate and proper solid waste disposal service at just and reasonable rates cannot be achieved unless the Board of Public Utilities is charged with the duty of setting and enforcing standards and rates for regulating the economic aspects of all solid waste disposal service; and that the exercise of any power herein provided for shall be deemed to be in the public interest and for a public purpose.

26. Section 3 of P.L.1970, c.40 (C.48:13A-3) is amended to read as follows:

C.48:13A-3 Definitions.

3. As used in this act:

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

"Solid waste collection" means the activity related to pickup and transportation of solid waste from its source or location to a transfer station or other authorized solid waste facility, but does not include activity related to the pickup, transportation or unloading of septic waste.

"Solid waste collector" means a person engaged in the collection of solid waste and holding a certificate of public convenience

and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9).

"Solid waste disposal" means the storage, treatment, utilization, processing, transfer, or final disposal of solid waste.

"Septic waste" means pumpings from septic tanks and cesspools, but shall not include wastes from a sewage treatment plant.

"Solid waste container" means a receptacle, container or bag suitable for the depositing of solid waste.

"Solid waste collection services" means the services provided by persons engaging in the business of solid waste collection.

"Solid waste disposal services" means the services provided by persons engaging in the business of solid waste disposal.

"Solid waste facilities" mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of P.L.1970 c.39 (C.13:1E-1 et seq.) and P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Solid waste transfer operations" mean the activity related to the transfer of solid waste from solid waste collection vehicles to solid waste haulage vehicles, including rail cars, for transportation to an offsite sanitary landfill facility, resource recovery facility, or other destination for disposal.

"Transfer station" means a solid waste facility at which solid waste is transferred from a solid waste collection vehicle to a licensed solid waste haulage vehicle, including a rail car, for transportation to an offsite sanitary landfill facility, resource recovery facility, or other destination for disposal, except that a "transfer station" shall not include any solid waste facility at which solid waste is received for onsite transfer, and processing or disposal utilizing facility-owned or operated equipment and vehicles operated therefor.

27. Section 5 of P.L.1970, c.40 (C.48:13A-4) is amended to read as follows:

C.48:13A-4 Rules, regulations.

5. a. The Board of Public Utilities shall, after hearing, by order in writing, adopt appropriate rules, regulations or administrative

orders for the regulation of rates and public utility aspects of the solid waste disposal industry.

b. The Board of Public Utilities shall, after hearing, by order in writing, adopt appropriate rules, regulations or administrative orders for the supervision of the solid waste collection industry.

c. The Board of Public Utilities shall, in conjunction with the Department of Environmental Protection, after hearing, by order in writing, adopt appropriate rules, regulations or administrative orders providing for the interdistrict, intradistrict and interstate flow of solid waste. The rules, regulations, or administrative orders shall establish the manner in which the board and the department jointly direct the flow of solid waste in this State pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.) and P.L.1970, c.39 (C.13:1E-1 et seq.).

The provisions of this subsection shall not apply to designated recyclable materials as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12) or any other recyclable material whenever markets for those materials are available.

28. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to read as follows:

C.48:13A-6 Qualifications.

7. a. No person shall engage, or be permitted to engage, in the business of solid waste collection or solid waste disposal until found by the board to be qualified by experience, training or education to engage in such business, is able to furnish proof of financial responsibility, and unless that person holds a certificate of public convenience and necessity issued by the Board of Public Utilities.

(1) No certificate shall be issued for solid waste collection or solid waste disposal until the person proposing to engage in solid waste collection or solid waste disposal has been registered with and approved by the Department of Environmental Protection as provided by section 5 of P.L.1970, c.39 (C.13:1E-5).

(2) No certificate of public convenience and necessity shall be issued by the Board of Public Utilities to any person who has been denied approval of a license under the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or whose license has been revoked by the Department of Environmental Protection, as the case may be.

b. No person shall transport regulated medical waste until found by the Board of Public Utilities to be qualified by experience, training or education to engage in such business, is able to furnish proof of financial responsibility, and holds a certificate of public

convenience and necessity issued by the board. No certificate shall be issued for the transportation of regulated medical waste until the proposed transporter has obtained a registration statement required by section 5 of P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed under section 9 of P.L.1989, c.34 (C.13:1E-48.9).

c. Notwithstanding the provisions of subsection b. of this section, the board shall not have jurisdiction over rates or charges for the transportation of regulated medical waste.

29. Section 8 of P.L.1970, c.40 (C.48:13A-7) is amended to read as follows:

C.48:13A-7 Proof of reasonable rates; adjustments.

8. a. The board, upon complaint or its own initiative, after hearing, may direct any person engaging in the solid waste disposal business to furnish proof that the rates or charges received for solid waste disposal services do not exceed just and reasonable rates or charges for such service.

b. Should the board find that the rates or charges received for solid waste disposal services are excessive, then it may order the person charging such excessive rates or charges to make an adjustment in the tariff or contract to a sum which shall result in just and reasonable rates or charges.

30. Section 9 of P.L.1970, c.40 (C.48:13A-8) is amended to read as follows:

C.48:13A-8 Failure to perform; board orders.

9. Should any person engaged in the solid waste disposal business fail or refuse to complete, execute or perform any contract or agreement obligating such person to provide solid waste disposal services, the board may order any person engaged in the solid waste disposal business to extend solid waste disposal services into any area where service has been discontinued in accordance with the provisions of R.S.48:2-27, and the board shall:

(1) fix an appropriate initial rate for solid waste collection service; or

(2) fix and exercise continuing jurisdiction over just and reasonable rates and charges for solid waste disposal service in the extended area.

c. Should any person engaged in the solid waste collection business refuse to furnish solid waste collection services within a municipality pursuant to section 2 of P.L.1991, c.170 (C.40:66-

5.2), the board may order the solid waste collector to provide these services in accordance with the provisions of R.S.48:2-23.

31. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to read as follows:

C.48:13A-9 Revocation or suspension of certificate of public convenience.

10. The board, on its own initiative or upon complaint by the Department of Environmental Protection shall revoke or suspend the certificate of public convenience and necessity issued to any person engaged in the solid waste collection business or the solid waste disposal business upon the finding that such person:

a. Has violated any provision of P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.), or any rule, regulation or administrative order adopted or issued pursuant thereto; or

b. Has violated any provision of any laws related to pollution of the air, water or lands of this State; or

c. Has refused or failed to comply with any lawful order of the board; or

d. Has had its registration revoked by the Department of Environmental Protection; or

e. Has been denied approval of a license under the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or has had its license revoked by the Department of Environmental Protection, as the case may be.

32. Section 11 of P.L.1970, c.40 (C.48:13A-10) is amended to read as follows:

C.48:13A-10 Monopoly prohibited; recovery of damages; prequalification test.

11. a. No person shall monopolize, or attempt to monopolize, or combine or conspire with any other person to monopolize, trade or commerce in any relevant market, located in whole or in part in this State, for the solid waste collection business or the solid waste disposal business.

b. Any person who shall be injured in his business or property by reason of a violation of the provisions of subsection a. of this section may sue therefor and shall recover threefold the damages sustained by him, together with reasonable attorney's fees and the costs of the suit. The State and any of its political subdivisions and public agencies shall be deemed a person within the meaning of this act. Any action brought pursuant to this subsection shall be barred unless commenced within 5 years after the cause of action accrued.

c. No municipality may require any person lawfully engaged in the solid waste collection business or the solid waste disposal business to submit to any prequalification test before permitting that person to bid on a contract or before the employment of a solid waste collection or a solid waste disposal contractor.

33. Section 12 of P.L.1970, c.40 (C.48:13A-11) is amended to read as follows:

C.48:13A-11 Attendance of witnesses; production of tariffs, accounts and documents.

12. a. The board may compel the attendance of witnesses and the production of tariffs, contracts, papers, books, accounts and all the documents necessary to enable the board to administer its duties as prescribed by law and this act.

b. The board may compel any person engaged in the business of solid waste collection or solid waste disposal or otherwise providing solid waste collection or transfer, transportation or disposal services in this State to furnish and file with the board any annual reports, federal or State tax returns, contracts, papers, books, accounts, customer lists, financial or operational information, or contracts, books, accounts and records of affiliated business concerns, including any affiliated or parent corporation or organization, or any wholly or partially owned subsidiary thereof, directly or indirectly involved therewith, or having a direct or indirect financial interest in the solid waste disposal services provided by that person, and all financial transactions between these parties related to the solid waste disposal services provided by that person, or other documents as may be necessary to enable the board to administer its duties as prescribed by law and this act.

c. Should any person engaged in the business of solid waste collection or solid waste disposal or otherwise providing solid waste collection or transfer, transportation or disposal services fail or refuse to comply with any provision of this section, or any applicable provision of Title 48 of the Revised Statutes, the board may revoke or suspend the certificate of public convenience and necessity issued to that person.

34. Section 13 of P.L.1970, c.40 (C.48:13A-12) is amended to read as follows:

C.48:13A-12 Penalties; injunctive relief; payment to fund.

13. a. Any person or any officer or agent thereof who shall knowingly violate any of the provisions of this act or aid or advise

in such violation, or who, as principal, manager, director, agent, servant or employee knowingly does any act comprising a part of such violation, is guilty of a crime of the fourth degree and shall be punished by imprisonment for not more than 18 months or, notwithstanding the provisions of N.J.S.2C:43-3, by a fine of not more than $50,000.00, or both; and if a corporation by a fine of not more than $100,000.00. Each day during which the violation continues constitutes an additional, separate and distinct offense.

b. Any person who shall violate any provision of P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.) or any rule, regulation or administrative order adopted or issued pursuant thereto, including an interdistrict, intradistrict or interstate waste flow order issued in conjunction with the Department of Environmental Protection, or under any applicable provision of Title 48 of the Revised Statutes, or who shall engage in the solid waste collection business or solid waste disposal business without having been issued a certificate of public convenience and necessity, shall be liable to a penalty of not more than $10,000.00 for a first offense, not more than $25,000.00 for a second offense and not more than $50,000.00 for a third and every subsequent offense. Each day during which the violation continues constitutes an additional, separate and distinct offense. The penalties herein provided shall be enforced by summary proceedings instituted by the board under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal courts shall all have jurisdiction to enforce "the penalty enforcement law" in connection with this act.

c. Whenever it shall appear to the board, a municipality, local board of health, or county health department, as the case may be, that any person has violated, intends to violate, or will violate any provision of P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.) or any rule, regulation or administrative order adopted or issued pursuant thereto, or under any applicable provision of Title 48 of the Revised Statutes, the board, the municipality, local board of health or county health department may institute a civil action in the Superior Court for injunctive relief and for such other relief as may be appropriate in the circumstances, and the court may proceed in any such action in a summary manner.

Notwithstanding the provisions of any other law, or any rule or regulation adopted pursuant thereto to the contrary, all penalties recovered pursuant to actions brought by the board under this section shall be paid to the "Solid Waste Enforcement Fund"

established pursuant to section 21 of P.L.1991, c.381 (C.48:13A-21). If a money judgment is rendered against a defendant pursuant to subsections a. or b. of this section, the payment made to the court shall be remitted to the fund.

35. R.S.48:3-7 is amended to read as follows:

Utility property transactions.

48:3-7. a. No public utility shall, without the approval of the board, sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part thereof; or merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other public utility.

Where, by the proposed sale, lease or other disposition of all or a substantial portion of its property, any franchise or franchises, privileges or rights, or any part thereof or merger or consolidation thereof as set forth herein, it appears that the public utility or a wholly owned subsidiary thereof may be unable to fulfill its obligation to any employees thereof with respect to pension benefits previously enjoyed, whether vested or contingent, the board shall not grant its approval unless the public utility seeking the board's approval for such sale, lease or other disposition assumes such responsibility as will be sufficient to provide that all such obligations to employees will be satisfied as they become due.

Every sale, mortgage, lease, disposition, encumbrance, merger or consolidation made in violation of this section shall be void.

Nothing herein shall prevent the sale, lease or other disposition by any public utility of any of its property in the ordinary course of business, nor require the approval of the board to any grant, conveyance or release of any property or interest therein heretofore made or hereafter to be made by any public utility to the United States, State or any county or municipality or any agency, authority or subdivision thereof, for public use.

The approval of the board shall not be required to validate the title of the United States, State or any county or municipality or any agency, authority or subdivision thereof, to any lands or interest therein heretofore condemned or hereafter to be condemned by the United States, State or any county or municipality or any agency, authority or subdivision thereof for public use.

b. Notwithstanding any law, rule, regulation or order to the contrary, an autobus public utility regulated by and subject to the provisions of Title 48 of the Revised Statutes may, without the

approval of the Department of Transportation, sell, lease, mortgage or otherwise dispose of or encumber its property, or any part thereof, except that approval of the Department of Transportation shall be required for the following:

(1) the sale of 60% or more of its property within a 12-month period;

(2) a merger or consolidation of its property, franchises, privileges or rights; or

(3) the sale of any of its franchises, privileges or rights.

Notice of the sale, purchase or lease of any autobus or other vehicle subject to regulation under Title 48 of the Revised Statutes shall be provided to the Department of Transportation as the department shall require.

c. Except as otherwise provided in subsection e. of this section, no solid waste collector as defined in section 3 of P.L.1970, c.40 (C.48:13A-3) shall, without the approval of the board:

(1) sell, lease, mortgage or otherwise dispose of or encumber its property, including customer lists; or

(2) merge or consolidate its property, including customer lists, with that of any other person or business concern, whether or not that person or business concern is engaged in the business of solid waste collection or solid waste disposal pursuant to the provisions of P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

d. Any solid waste collector seeking approval for any transaction enumerated in subsection c. of this section shall file with the board, on forms and in a manner prescribed by the board, a notice of intent at least 30 days prior to the completion of the transaction.

(1) The board shall promptly review all notices filed pursuant to this subsection. The board may, within 30 days of receipt of a notice of intent, request that the solid waste collector submit additional information to assist in its review if it deems that such information is necessary. If no such request is made, the transaction shall be deemed to have been approved. In the event that additional information is requested, the board shall outline, in writing, why it deems such information necessary to make an informed decision on the impact of the transaction on effective competition.

(2) The board shall approve or deny a transaction within 60 days of receipt of all requested information. In the event that the board fails to take action on a transaction within the 60-day period specified herein, then the transaction shall be deemed to have been approved.

(3) The board shall approve a transaction unless it makes a determination pursuant to the provisions of section 19 of P.L.1991, c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage, disposition, encumbrance, merger or consolidation would result in a lack of effective competition.

The Board of Public Utilities shall prescribe and provide upon request all necessary forms for the implementation of the notification requirements of this subsection.

e. (1) Any solid waste collector may, without the approval of the board, purchase, finance or lease any equipment, including collection or haulage vehicles.

(2) Any solid waste collector may, without the approval of the board, sell or otherwise dispose of its collection or haulage vehicles; except that no solid waste collector shall, without the approval of the board in the manner provided in subsection d. of this section, sell or dispose of 33% or more of its collection or haulage vehicles within a 12-month period.

As used in this section, "business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization.

36. R.S.48:3-9 is amended to read as follows:

Security transactions.

48:3-9. No public utility shall, unless it shall have first obtained authority from the board so to do:

(a) Issue any stocks, or any bonds, notes or other evidence of indebtedness payable more than 12 months after the date or dates thereof, or extend or renew any bond, note or any other evidence of indebtedness so that any extension or renewal thereof shall be payable later than 12 months after the date of the original instrument, or

(b) Permit any demand note to remain unpaid for a period of more than 12 months after the date thereof.

The board shall approve any such proposed issue, with or without hearing at its discretion, when satisfied that such issue is to be made in accordance with law and the purpose thereof is approved by the board.

The provisions of this section shall not apply to any public utility operating, managing or controlling a railroad or a railway express which is subject to the rules and regulations from time to time issued by the Interstate Commerce Commission.

The provisions of this section shall not apply to autobus public utilities under the jurisdiction of the Department of Transportation.

The provisions of this section shall not apply to any solid waste collector as defined in section 3 of P.L.1970, c.40 (C.48:13A-3).

37. Section 2 of P.L.1981, c.438 (C.13:1E-9.1) is amended to read as follows:

C.13:1E-9.1 Surcharges.

2. The provisions of any law to the contrary notwithstanding, the owner or operator of any sanitary landfill facility may collect any fee imposed pursuant to section 9 of P.L.1970, c.39 (C.13:1E-9) as a surcharge on any tariff established pursuant to law for the solid waste disposal operations of the facility.

38. Section 18 of P.L.1975, c.326 (C.13:1E-27) is amended to read as follows:

C.13:1E-27 Solid waste facility deemed public utility.

18. Any solid waste facility constructed, acquired or operated pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) shall be deemed a public utility and shall be subject to such rules and regulations as may be adopted by the Board of Public Utilities in accordance with the provisions of the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) and P.L.1991, c.381 (C.48:13A-7.1 et al.).

39. Section 19 of P.L.1975, c.326 (C.13:1E-28) is amended to read as follows:

C.13:1E-28 Annual payment to host municipality.

19. a. Any municipality within which a sanitary landfill facility is located pursuant to an adopted and approved district solid waste management plan shall be entitled to an annual economic benefit not less than the equivalent of $1.00 per ton of solids on all solid waste accepted for disposal at the sanitary landfill facility during the previous calendar year as determined by the department.

The owner or operator of the sanitary landfill facility shall annually pay to the relevant municipality the full amount due under this subsection and each relevant municipality is empowered to anticipate this amount for the purposes of preparing its annual budget. For the purposes of calculating the payments, the owner or operator of the sanitary landfill facility may, subject to the prior agreement

of the relevant municipality and the approval of the Board of Public Utilities, provide the municipality with any of the following benefits in consideration for the use of land within its municipal boundaries as the location of a sanitary landfill facility:

(1) The receipt of annual sums of money in lieu of taxes on the land used for the sanitary landfill facility;

(2) The exemption from all fees and charges for the disposal of solid waste generated within its boundaries;

(3) The receipt of a lump sum cash payment; or

(4) Any combination thereof.

b. Every owner or operator of a sanitary landfill facility required to make annual payments to a municipality pursuant to subsection a. of this section may petition the Board of Public Utilities for an increase in its tariff which reflects these payments. The board, within 60 days of the receipt of the petition, shall issue an appropriate order that these payments shall be passed along to the users of the sanitary landfill facility as an automatic surcharge on any tariff filed with, and recorded by, the board for the solid waste disposal operations of the facility.

c. In issuing any order required by this section, the Board of Public Utilities shall be exempt from the provisions of R.S.48:2-21.

40. Section 2 of P.L.1987, c.449 (C.13:1E-28.1) is amended to read as follows:

C.13:1E-28.1 Transfer station payment to host municipality.

2. a. Any municipality within which a transfer station is located pursuant to an adopted and approved district solid waste management plan shall be entitled to an annual economic benefit to be paid or adjusted not less than quarterly in an amount established by agreement with the owner or operator of the transfer station or by order of the Board of Public Utilities, but not less than the equivalent of $0.50 per ton of all solid waste accepted for transfer at the transfer station during the 1987 calendar year and each year thereafter.

The owner or operator of the transfer station shall, not less frequently than quarterly, pay to the relevant municipality the full amount due under this subsection and each relevant municipality is empowered to anticipate this amount for the purposes of preparing its annual budget. For the purposes of calculating the payments, the owner or operator of the transfer station may, subject to the prior agreement of the relevant municipality and the approval of the Board of Public Utilities, provide the municipality with any of the

following benefits in consideration for the use of land within its municipal boundaries as the location of a transfer station:

(1) The receipt of quarterly payments of annual sums of money in lieu of taxes on the land used for the transfer station;

(2) The exemption from all fees and charges for the acceptance for transfer of solid waste generated within its boundaries;

(3) The receipt of quarterly lump sum cash payments; or

(4) Any combination thereof.

b. Every owner or operator of a transfer station required to make payments not less frequently than quarterly to a municipality pursuant to subsection a. of this section may petition the Board of Public Utilities for an increase in its tariff which reflects these payments. The board, within 60 days of the receipt of the petition, shall issue an order that these payments shall be passed along to the users of the transfer station as an automatic surcharge on any tariff filed with, and recorded by, the board for the solid waste disposal operations of the transfer station.

c. In issuing any order required by this section, the Board of Public Utilities shall be exempt from the provisions of R.S.48:2-21.

41. Section 7 of P.L.1981, c.278 (C.13:1E-98) is amended to read as follows:

C.13:1E-98 Collection of tax as surcharge.

7. The provisions of any law to the contrary notwithstanding, the owner or operator of any solid waste facility may collect the tax imposed pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95) as a surcharge on any tariff established pursuant to law for the solid waste disposal operations of the facility.

42. Section 40 of P.L.1987, c.102 (C.13:1E-99.33) is amended to read as follows:

C.13:1E-99.33 Recycling activities outside BPU jurisdiction.

40. a. Any person engaged in the business of solid waste collection or solid waste disposal in accordance with the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act may engage in recycling or otherwise provide recycling services in this State.

b. The Board of Public Utilities shall not have jurisdiction over charges or rates for recycling or services provided by persons engaging in the business of recycling or otherwise providing recycling services in this State.

43. Section 13 of P.L.1981, c.306 (C.13:1E-112) is amended to read as follows:

C.13:1E-112 Tax and escrow collected as surcharge; adjustments.

13. a. The provisions of any law to the contrary notwithstanding, the owner or operator of any sanitary landfill facility may collect the tax imposed pursuant to section 5 of P.L.1981, c.306 (C.13:1E-104), and the escrow account payments required by section 10 of P.L.1981, c.306 (C.13:1E-109), as a surcharge on any tariff established pursuant to law for the solid waste disposal operations of the facility.

b. The Board of Public Utilities may direct the owner or operator of a sanitary landfill facility to reduce the rate of payments to an escrow account required by section 10 of P.L.1981, c.306 (C.13:1E-109), but only to the extent that:

(1) The current tariff established pursuant to law for the solid waste disposal operations of the facility specifically allocates a portion thereof for closing costs; and

(2) The amount collected for closing costs pursuant to this tariff are deposited, on a monthly basis, in the escrow account for the facility.

44. Section 3 of P.L.1983, c.93 (C.13:1E-119) is amended to read as follows:

C.13:1E-119 Increase in tariffs.

3. Any solid waste facility required to install scales pursuant to this act may petition the Board of Public Utilities for an increase in its tariff which reflects the costs reasonably incurred by the facility in complying with this act. The board, within 60 days of the receipt of such a petition, shall determine the extent to which these costs shall be passed along to the users of the solid waste facility as an automatic surcharge on any tariff filed with, and recorded by, the board for the operation of the solid waste facility.

45. Section 9 of P.L.1985, c.38 (C.13:1E-144) is amended to read as follows:

C.13:1E-144 Automatic surcharge for taxes.

9. Notwithstanding the provisions of any law to the contrary, the owner or operator of a sanitary landfill facility may collect the taxes levied and imposed pursuant to section 3 of P.L.1985, c.38 (C.13:1E-138) by imposing an automatic surcharge on any tariff established pursuant to law for the solid waste disposal operations of the sanitary landfill facility.

46. Section 6 of P.L.1973, c.330 (C.40:37A-103) is amended to read as follows:

C.40:37A-103 Classification of solid waste facility as public utility.

6. Any solid waste facilities owned or operated by a county improvement authority pursuant to the provisions of this amendatory and supplementary act, shall be deemed a public utility and shall be subject to such rules and regulations as may be adopted by the Board of Public Utilities in accordance with the provisions of the "Solid Waste Utility Control Act" (P.L.1970, c.40, C.48:13A-1 et seq.). The improvement authority's application to operate any solid waste facility shall be considered at a public hearing by the Board of Public Utilities.

47. R.S.40:66-4 is amended to read as follows:

Contracts; bid specification, advertising, renegotiations.

40:66-4. a. The governing body may, if it deem it more advantageous, contract with any person for the cleaning of the streets, or the collection or disposal of solid waste. Before making any such contract or contracts the governing body shall first adopt specifications for the doing of the work in a sanitary and inoffensive manner. Any specifications adopted by the governing body for the collection or disposal of solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22). Any such contract or contracts, the total amount of which exceeds in the fiscal year the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be entered into and made only after bids shall have been advertised therefor, and awarded in the manner provided in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

b. Whenever the governing body adopts an ordinance to provide for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of R.S.40:66-5, on or after the first day of the 13th month following the effective date of that ordinance, the governing body may request the relevant solid waste collector to whom a multi-year contract has been awarded to renegotiate the contract to reflect any reduction in the annual volume of solid waste collected achieved as a result of the ordinance.

48. Section 13 of P.L.1971, c.198 (C.40A:11-13) is amended to read as follows:

C.40A:11-13 Specifications.

13. Specifications. Any specifications for an acquisition under this act, whether by purchase, contract or agreement, shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this act may:

(a) Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; or

(b) Require that any bidder be a resident of, or that his place of business be located in, the county or municipality in which the purchase will be made or the contract or agreement performed, unless the physical proximity of the bidder is requisite to the efficient and economical purchase or performance of the contract or agreement; except that no specification for a contract for the collection and disposal of municipal solid waste shall require any bidder to be a resident of, or that his place of business be located in, the county or municipality in which the contract will be performed; or

(c) Discriminate on the basis of race, religion, sex, national origin; or

(d) Require, with regard to any purchase, contract or agreement, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the materials to be supplied or purchased are patented or copyrighted, such materials or supplies may be purchased by specification in any case in which the ordinance or resolution authorizing the purchase, contract, sale or agreement so indicates, and the special need for such patented or copyrighted materials or supplies is directly related to the performance, completion or undertaking of the purpose for which the purchase, contract or agreement is made; or

(e) Fail to include any option for renewal, extension, or release which the contracting unit may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract or agreement.

Any specification adopted by the governing body, which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and subject purchase, contract or agreement shall be readvertised,

and the original purchase, contract or agreement shall be set aside by the governing body.

Any specification adopted by the governing body for a contract for the collection and disposal of municipal solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22).

49. 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. Duration of certain contracts. 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, 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 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 Division of Energy Planning and Conservation of the Board of Public Utilities, 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 facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

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

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protec-

tion pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For the purposes of this subsection, "wastewater treatment services" means any service 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.

All multi-year 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, 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.

50. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to read as follows:

C.40A:11-23 Advertisements for bids; bids; general requirements.

23. Advertisements for bids; bids; general requirements. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date; except that all advertisements for bids on contracts for the collection and disposal of municipal solid waste shall be published in a legal newspaper circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but not less than 60 days prior to that date.

The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the governing body of the contracting unit for its action thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

Notice of revisions or addenda to advertisements or bid documents relating to bids shall, no later than five days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids, be published in a legal newspaper and be made available by notification in writing by certified mail to any person who has submitted a bid or who has received a bid package; except that notice of revisions or addenda to advertisements or bid documents relating to bids on contracts for the collection and disposal of municipal solid waste shall be published in a legal newspaper circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, no later than 5 days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids.

Repealer.

51. Section 10 of P.L.1985, c.38 (C.13:1E-145) is repealed.

52. This act shall take effect on the 90th day after enactment, except that section 15 shall take effect 48 months thereafter. Sec-

tions 5 through 10 and sections 12, 13 and 23 of this act shall expire on the effective date of section 15.

Approved January 15, 1992.

CHAPTER 382

AN ACT establishing a Pension and Health Benefits Review Commission and supplementing Title 52 of the Revised Statutes.

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

C.52:9HH-1 Pension and Health Benefits Review Commission.

1. There is hereby established a Pension and Health Benefits Review Commission. The commission shall consist of 10 members: the State Treasurer and three other members of the Executive Branch, who shall be designated by the Governor and who shall serve at the Governor's pleasure; two public members to be appointed by the President of the Senate, no more than one of whom shall be of the same political party; two public members to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party; and two public members, no more than one of whom shall be of the same political party, to be appointed by the Governor with the advice and consent of the Senate.

Public members appointed by the Governor shall serve for a term of four years and until their respective successors are appointed and qualified, except that of the public members first appointed, one shall serve for a term of two years and one shall serve for a term of four years. Public members appointed by the President of the Senate or Speaker of the General Assembly shall serve during the two-year legislative term in which the appointment is made and until their respective successors are appointed and qualified. Any vacancy in the membership of the commission shall be filled for the balance of the unexpired term in the same manner as the original appointment was made.

A chairman of the commission shall be designated by the Governor from among its public members and shall serve at the pleasure of the Governor.

Members of the commission shall serve without compensation but shall be entitled to reimbursement for expenses actually incurred in the performance of their duties.

C.52:9HH-2 Commission's review and recommendation of legislation.

2. a. It shall be the duty of the commission to review any bill, joint resolution or concurrent resolution introduced in either House of the Legislature which establishes or modifies pension benefits or health benefits for public employees in this State. Such a review shall include, but not be limited to, an analysis of the bill's or resolution's fiscal impact on the retirement system and on the public employer, any comments upon or recommendations concerning the legislation, and any alternatives to the legislation which the commission may wish to suggest.

b. Not later than the 20th day after the date of introduction of any bill or resolution in either House of the Legislature, the Legislative Budget and Finance Officer shall review it in order to determine whether the bill or resolution constitutes pension or health benefits legislation. If, on the basis of that review, the Legislative Budget and Finance Officer determines that the bill or resolution constitutes such legislation, that officer shall promptly give written notice of that determination to the commission, the presiding officer of the House in which the bill or resolution was introduced and the chairman of the standing reference committee of that House to which the bill or resolution may have been referred. Not later than the 45th day after the date of introduction of any bill or resolution in either House of the Legislature which the Legislative Budget and Finance Officer has determined constitutes pension or health benefits legislation, the commission shall complete its review and provide its comments and recommendations in writing to the presiding officer of the House in which the bill or resolution was introduced and to the chairman of the standing reference committee of that House to which the bill or resolution may have been referred. If the commission requests an extension prior to the 45th day after the date of introduction of a bill or resolution, the presiding officer of the House in which the bill or resolution was introduced may grant an extension for the commission to complete its review of the bill or resolution. The House or committee shall not consider or vote upon the bill or resolution until either the commission completes its review and provides its comments and recommendations in writing to the presiding officer and the chairman, or the 45th day after the date of introduction of the bill or resolution, or the designated day in the case of an extension. If the presiding officer of the House in which the bill or resolution

was introduced determines that the bill or resolution is an urgent matter, he shall so notify in writing the commission and the chairman of the standing reference committee to which the bill or resolution may have been referred, and the House or committee may consider and vote upon the bill or resolution as soon as practicable.

C.52:9HH-3 Assistance and services to the Commission.

3. a. The commission shall be entitled to the assistance and services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for these purposes, and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses as necessary, to perform its duties, and within the limits of funds appropriated or otherwise made available to it for these purposes.

b. The Division of Pensions in the Department of the Treasury shall assist the commission in the performance of its duties. The commission may make use of existing studies, data or other materials in the possession of the division and may request the assistance and services of the division's employees.

c. The employees of any State agency or political subdivision of the State may serve at the request of the commission upon any advisory committee which the commission may create and these employees may serve upon these committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

C.52:9HH-4 Hearings.

4. The commission may meet and hold hearings at the place or places it designates, at which it may request the appearance of officials of any State agency or political subdivision of the State and may solicit the testimony of interested groups and the general public.

C.52:9HH-5 Rules and regulations.

5. The commission may adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as it shall deem necessary to carry out its functions.

C.52:9HH-6 Reports

6. The commission shall report on its activities by December 31 of each year to the Legislature and may issue periodic reports concerning public employee pension and health benefits.

7. This act shall take effect on January 14, 1992.

Approved January 16, 1992.

CHAPTER 383

AN ACT concerning loitering as a disorderly persons offense 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:33-2.1 "Public place" defined; loitering to obtain or distribute CDS is a disorderly persons offense.

1. a. As used in this section:

"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, public library or any other public building, structure or area.

b. A person, whether on foot or in a motor vehicle, commits a disorderly persons offense if (1) he wanders, remains or prowls in a public place with the purpose of unlawfully obtaining or distributing a controlled dangerous substance or controlled substance analog; and (2) engages in conduct that, under the circumstances, manifests a purpose to obtain or distribute a controlled dangerous substance or controlled substance analog.

c. Conduct that may, where warranted under the circumstances, be deemed adequate to manifest a purpose to obtain or distribute a controlled dangerous substance or controlled substance analog includes, but is not limited to, conduct such as the following:

(1) Repeatedly beckoning to or stopping pedestrians or motorists in a public place;

(2) Repeatedly passing objects to or receiving objects from pedestrians or motorists in a public place;

(3) Repeatedly circling in a public place in a motor vehicle and on one or more occasions passing any object to or receiving any object from a person in a public place.

d. The element of the offense described in paragraph (1) of subsection b. of this section may not be established solely by proof that the actor engaged in the conduct that is used to satisfy the element described in paragraph (2) of subsection b. of this section.

2. This act shall take effect on the 60th day after enactment.

Approved January 16, 1992.

CHAPTER 384

AN ACT concerning lottery prizes and the payment of child support and public assistance overpayments and supplementing Title 5 of the Revised Statutes.

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

C.5:9-13.1 Initiation of data exchange.

1. The Director of the Division of the State Lottery in the Department of the Treasury and the Director of the Division of Economic Assistance in the Department of Human Services shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of $2,500.

C.5:9-13.2 Provision of child support arrears and public assistance overpayment lists.

2. The Director of the Division of Economic Assistance shall periodically supply the Office of Telecommunications and Information Systems with a list of:

a. those individuals in arrears of a court ordered child support obligation; and

b. those former recipients of Aid to Families with Dependent Children, pursuant to P.L.1959, c.86 (C.44:10-1 et seq.), food stamp benefits issued pursuant to Pub.L. 95-113, Title XIII (7 U.S.C. §2011 et seq.), or low-income home energy assistance benefits issued pursuant to Pub.L. 97-35, Title XXVI (42 U.S.C. §8621 et seq.) who incurred an overpayment which has not been repaid.

C.5:9-13.3 Provision of list of prize winners.

3. The Director of the Division of the State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and social security number and the amount of the pending payment.

C.5:9-13.4 Cross check of social security number.

4. The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Director of the Division of Economic Assistance for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Division of Economic Assistance.

C.5:9-13.5 Withholding of certain lottery winnings.

5. If a lottery prize claimant is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Division of Economic Assistance shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Department of Human Services or appropriate county probation department, as the case may be, in accordance with regulations promulgated by the State Treasurer.

C.5:9-13.6 Lien on lottery proceeds.

6. The county welfare agency which provided the public assistance benefits or the county probation office, acting as agent for the child support payee, shall have a lien on the proceeds of the State lottery prize in an amount equal to the amount of child support arrearage or the amount of overpayment incurred.

The lien imposed by this act shall be enforceable in the Superior Court.

C.5:9-13.7 Remaining funds paid to claimant.

7. Any of the claimant's lottery prize funds remaining after withholding pursuant to the lien established pursuant to this act shall be paid to the claimant in accordance with lottery procedures.

C.5:9-13.8 Rules, regulations; hearing; confidentiality.

8. The State Treasurer shall promulgate, 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 effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt notice" shall mean notice within 14 days or less.

The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

C.5:9-13.9 Implementation costs.

9. The costs associated with or necessary for the implementation of P.L.1991, c.384 (C.5:9-13.1 et seq.) shall be borne by the Division of Economic Assistance in the Department of Human Services.

10. This act shall take effect on the 90th day after enactment.

Approved January 16, 1992.

CHAPTER 385

AN ACT concerning the practice of optometry, amending R.S.45:12-1, R.S.45:14-13, R.S.45:14-14 and R.S.45:14-15 and supplementing chapter 12 of Title 45 of the Revised Statutes.

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

Short title.

1. This act shall be known and may be cited as the "Consumer Access to Eye Care Act of 1991."

2. R.S.45:12-1 is amended to read as follows:

Practice of optometry defined.

45:12-1. Optometry is hereby declared to be a profession, and the practice of optometry is defined to be the employment of objective or subjective means, or both, for the examination of the human eye for the purposes of ascertaining any departure from the normal, measuring its powers of vision and adapting lenses or prisms for the aid thereof, or the use and prescription of pharmaceutical agents, excluding controlled dangerous substances as provided in sections 5, 6, 7 and 8 of P.L.1970, c.226 (C.24:21-5 through C.24:21-8) and section 4 of P.L.1971, c.3 (C.24:21-8.1) and excluding those prescription medications taken orally or by injection, except for injections to counter anaphylactic reaction, for the purposes of treating deficiencies, deformities, diseases, or anomalies of the human eye including the removal of superficial foreign bodies from the eye and adnexae. An optometrist utilizing pharmaceutical agents for treatment purposes shall be held to a standard of patient care in the use of such agents commensurate to that of a physician utilizing ocular pharmaceutical agents for treatment purposes. A person shall be deemed to be practic-

ing optometry within the meaning of this chapter who in any way advertises himself as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, practice, offer or attempt to practice optometry as herein defined, either on his own behalf or as an employee or student of another, whether under the personal supervision of his employer or perceptor or not, or to use testing appliances for the purposes of measurement of the powers of vision or diagnose any ocular deficiency or deformity, visual or muscular anomaly of the human eye or prescribe lenses, prisms or ocular exercise for the correction or the relief thereof, or who uses or prescribes pharmaceutical agents for the purposes of diagnosing and treating deficiencies, deformities, diseases or anomalies of the human eye or who holds himself out as qualified to practice optometry.

3. R.S.45:14-13 is amended to read as follows:

Prescriptions filled only by pharmacists or apprentices duly supervised.

45:14-13. No person who is not a registered pharmacist of this State, or an apprentice employed in a pharmacy under the immediate personal supervision of a registered pharmacist, shall compound, dispense, fill or sell prescriptions of physicians, dentists, optometrists, veterinarians, any other medical practitioners, certified nurse midwives, nurse practitioners/clinical nurse specialists or physician assistants, licensed or approved to write prescriptions for drugs and medicines.

4. R.S.45:14-14 is amended to read as follows:

"Prescription" defined.

45:14-14. The term "prescription" as used in R.S.45:14-13, and R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, optometrist, veterinarian, other medical practitioner, a certified nurse midwife, a nurse practitioner/clinical nurse specialist or a physician assistant, licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, optometrist, veterinarian, other medical practitioner, a certified nurse midwife, a nurse practitioner/clinical nurse specialist or

a physician assistant, licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and such prescriptions received by word of mouth, telephone, telegraph or other means of communication shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be filed by the pharmacist as provided for in R.S.45:14-15, but no prescription, for any narcotic drug, except as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the physician, dentist, veterinarian, other medical practitioner, certified nurse midwife, nurse practitioner/clinical nurse specialist or a physician assistant, giving or transmitting the same, nor shall such prescription be renewed or refilled.

5. R.S.45:14-15 is amended to read as follows:

Prescriptions to be numbered and filed; removal of original prescriptions by board or agents.

45:14-15. The registered pharmacist compounding, dispensing, filling or selling a prescription shall place the original written prescription in a file kept for that purpose for a period of not less than five years if such period is not less then two years after the last refilling, and affix to the container in which the prescription is dispensed, a label bearing the name and complete address of the pharmacy or drug store in which dispensed, the brand name or generic name of the product dispensed unless the prescriber states otherwise on the original written prescription, the date on which the prescription was compounded and an identifying number under which the prescription is recorded in his files, together with the name of the physician, dentist, optometrist, veterinarian, other medical practitioner, certified nurse midwife, nurse practitioner/clinical nurse specialist or physician assistant, prescribing it and the directions for the use of the prescription by the patient, as directed on the prescription of the physician, dentist, optometrist, veterinarian, other medical practitioner, certified nurse midwife, nurse practitioner/clinical nurse specialist or physician assistant, licensed or approved to write prescriptions. Every registered pharmacist who fills or compounds a prescription, or who supervises the filling or compounding or a prescription by a person other than a pharmacist registered in this State, shall place his name or initials on the original prescription or on the label affixed to the container in which the prescription is dispensed or

in a book kept for the purpose of recording prescriptions. The Board of Pharmacy or any of its agents is hereby empowered to inspect the prescription files and other prescription records of a pharmacy and to remove from said files and take possession of any original prescription, providing, that the authorized agent removing or taking possession of an original prescription shall place in the file from which it was removed a copy certified by said person to be a true copy of the original prescription thus removed; provided further, that the original copy shall be returned by the Board of Pharmacy to the file from which it was removed after it has served the purpose for which it was removed.

C.45:12-9.8 Certification; rules, regulations.

6. The New Jersey State Board of Optometrists shall prescribe the application form, procedure and fees for certification for the use and prescription of pharmaceutical agents for treatment purposes in the practice of optometry and promulgate the rules and regulations necessary to effectuate the purposes of this amendatory and supplementary act.

C.45:12-9.9 Testing and educational requirements.

7. The New Jersey State Board of Optometrists shall establish the testing requirements which shall be fulfilled before a person may be certified to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry. In addition, the board shall establish continuing education requirements for the renewal of certification for the use and prescription of pharmaceutical agents for treatment purposes in the practice of optometry. No licensee shall be tested by the board for certification to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry before having first satisfactorily completed all educational requirements in ocular pharmacology at a school duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation. These educational standards shall be no less than that required of currently enrolled students as part of their requirements for graduation from that school. This certification process shall be required of all persons seeking to utilize pharmaceutical agents for treatment purposes in the practice of optometry regardless of licensure either prior or subsequent to the effective date of this amendatory and supplementary act.

C.45:12-9.10 Examinations.

8. No licensee shall be certified by the New Jersey State Board of Optometrists to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry before having received a satisfac-

tory score on an examination in ocular pharmacology approved and administered by the board. Until such time as a majority of the optometrist board members are certified to use and prescribe pharmaceutical agents for treatment purposes in the practice of optometry, an interim three member panel of experts in ocular pharmacology shall be established to prepare or endorse an examination for board approval. The interim advisory panel of experts in ocular pharmacology shall be comprised of a physician selected by the State Board of Medical Examiners, a doctor of pharmacology selected by the Board of Pharmacy, and a representative of a school of optometry duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation, to be selected by the New Jersey State Board of Optometrists. The interim panel shall be selected by the respective boards within 90 days of the effective date of this amendatory and supplementary act. Panel members shall be directly responsible to the Director of the Division of Consumer Affairs, who may order the replacement of any panel members for failure to promptly and equitably fulfill their duties. The panel shall have 120 days following appointment of a majority of the panel to submit to the New Jersey State Board of Optometrists an examination in ocular pharmacology. Should the panel fail within the 120 day period to submit an examination to the New Jersey State Board of Optometrists, the Director of the Division of Consumer Affairs shall designate, within 90 days thereafter, the examination for the interim period. Should the Director of the Division of Consumer Affairs fail to designate an examination within the 90 day period, the test shall be designated by the New Jersey State Board of Optometrists.

C.45:12-9.11 Prescription restrictions.

9. Whenever in any law there is a requirement or duty with respect to the prescription, administration or dispensing of any drug which applies to any person authorized to prescribe that drug, the same shall apply to an optometrist when prescribing, administering or dispensing a pharmaceutical agent pursuant to R.S.45:12-1, except that an optometrist shall not dispense a prescription as provided for in R.S.45:12-1 in an amount exceeding a 72-hour supply of that prescription unless the prescription is dispensed at no charge to the patient.

C.45:12-9.12 Practice at retail or commercial locations.

10. Notwithstanding any other provision of law to the contrary, an optometrist shall not be prohibited from practicing optometry at a rented location in a retail or commercial store or office or ophthalmic dispenser's office, provided the optometrist is identified as an independent doctor of optometry; and, provided further, that the

landlord or any officer, employee or agent of the landlord or any other person who does not possess a valid certificate of registration as an optometrist or physician in this State shall not directly or indirectly control, influence, interfere with or supervise the professional judgment of the optometrist in the practice of optometry, including but not limited to, the level or type of care or services rendered or the professional fees charged therefor, except as otherwise provided by P.L.1969, c.232 (C.14A:17-1 et seq.).

11. This act shall take effect 180 days following enactment.

Approved January 16, 1992.

CHAPTER 386

AN ACT concerning the New Jersey Transit Corporation and its subsidiaries, amending and supplementing various parts of the statutory law.

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

1. Section 2 of P.L.1989, c.291 (C.27:25-15.1) is amended to read as follows:

C.27:25-15.1 New Jersey Transit Police Department; duties, appointments, training.

2. a. There is established in the New Jersey Transit Corporation a New Jersey Transit Police Department, which shall be headed by a chief of police. This police department shall have police and security responsibilities over all locations and services owned, operated, or managed by the corporation and its subsidiaries. The executive director of the New Jersey Transit Corporation, through the chief of police of the New Jersey Transit Police Department, shall have the power and authority to appoint and employ such number of transit police officers as he deems necessary to act as transit police officers of the corporation and to administer to the transit police officers an oath or affirmation faithfully to perform the duties of their respective positions or offices. The transit police officers so appointed shall have general authority, without

limitation, to exercise police powers and duties, as provided by law for police officers and law enforcement officers, in all criminal and traffic matters at all times throughout the State and, in addition, to enforce such rules and regulations as the corporation shall adopt and deem appropriate. Nothing herein shall confer upon the transit police officers so appointed or upon their collective negotiations representative, exclusive jurisdiction or claim over the exercise of police power or security work on behalf of the corporation or any of its subsidiaries. Nothing herein shall limit the executive director from continuing to call upon local police for police services. The members of the New Jersey Transit Police Department shall comply with all policies established by the Attorney General, including rules and regulations, directives, advisory opinions, and other guidelines. The executive director, through the chief of police of the New Jersey Transit Police Department, shall, in accordance with procedures established by the Superintendent of State Police, investigate and determine the character, competency, integrity and fitness of any person making application for appointment as a police officer. The New Jersey Transit Police Department is authorized to exchange fingerprint data and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation, Identification Division, for use in making this determination.

b. Rail police officers of the New Jersey Transit Rail Operations Police Department who are employed by the corporation on the effective date of this 1991 amendatory and supplementary act shall continue in employment, and shall be appointed as transit police officers of the corporation. The corporation shall recognize any representative previously chosen by these police officers for the purposes of collective negotiations consistent with the bargaining units already established. The corporation shall also assume and observe any existing labor contracts covering these police officers for their remaining term; provided however, that the terms and conditions of these labor contracts are within the scope of negotiations as defined by the Public Employment Relations Commission under the "New Jersey Employer-Employee Relations Act," P.L. 1941, c. 100 (C.34:13A-1 et seq.).

c. Transit police officers appointed pursuant to this section shall satisfy the training requirements established by the Police Training Commission as follows:

(1) All officers appointed pursuant to this section after the effective date of this 1989 amendatory and supplementary act shall successfully complete, within one year of the date of their appointment, a training course approved by the Police Training Commission;

(2) All officers appointed and in employment on the effective date of this 1989 amendatory and supplementary act may continue in employment if, within 18 months of the effective date of this 1991 amendatory and supplementary act, they have satisfied the training requirements of the Police Training Commission;

(3) The executive director, through the chief of police of the New Jersey Transit Police Department, may request from the Police Training Commission an exemption from all or part of the training requirements of this subsection on behalf of a current or prospective officer who demonstrates successful completion of a police training course conducted by any federal, state or other public or private agency, the requirements of which are substantially equivalent to the requirements of the Police Training Commission.

d. Transit police officers shall qualify for an exemption from the provisions of N.J.S.2C:39-5 if they satisfactorily complete a firearms training course approved by the Police Training Commission.

C.27:25-15.1a Participation in Police and Firemen's Retirement System.

2. The police officers of the New Jersey Transit Police Department who qualify for participation in the Police and Firemen's Retirement System in accordance with the provisions of P.L.1944, c.255 (C.43:16A-1 et seq.) shall participate in the retirement system as a condition of employment. The New Jersey Transit Corporation shall be a participating employer in the retirement system for these police officers and shall make contributions to the retirement system and be subject to all the provisions of law applicable to employers participating in the retirement system, except as otherwise provided in this 1991 amendatory and supplementary act. A police officer with service with the corporation prior to the effective date of qualification for participation in the retirement system shall receive credit in the retirement system as a railway police officer or police officer of the corporation in the same manner provided for the transfer of membership under another State-administered, county or municipal retirement system to the Police and Firemen's System under subsection b. of section 9 of P.L.1989, c.204 (C.43:16A-1.2), except that the granting of past service credit shall be limited in the following manner: a. police officers with less than ten years

of service with the corporation or its predecessors shall receive past service credit from the date of hire; b. police officers with ten years or more of service with the corporation or its predecessors shall receive past service credit in an amount equal to their actual years of service minus ten years. In either case, such past service credit for any police officer shall be granted only if the officer is continuously employed by the New Jersey Transit Corporation for five full years from the effective date of this 1991 amendatory and supplementary act. This five year requirement shall be waived in the case of an officer who, while employed, dies, is required to retire because of pension system age requirements or is permanently disabled.

The corporation shall make contributions to the retirement system for the liability for the prior service credit in the same manner provided for employer contributions for the liability for service credit transferred from another State-administered, county or municipal retirement system under subsection b. of section 9 of P.L.1989, c.204 (C.43:16A-1.2). The actuary of the retirement system shall determine the liability for the prior service as provided in this section.

3. 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 Pub-

lic 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 subsection d. of 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, mainte-

nance 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.

4. R.S.48:3-38 is amended to read as follows:

Police for railroad, street railway, canal or steamboat companies.

48:3-38. a. On the application of any railroad, street railway, canal or steamboat company the Governor may appoint such persons as the company may designate to act as policemen for the company. The Secretary of State shall issue to each person so appointed a commission, a copy of which shall be filed in the office of the Superintendent of State Police. Each appointee shall pay to the Secretary of State a fee of $25.00 for that commission.

All applications shall, in the first instance, be made to said superintendent. The superintendent shall investigate and determine the character, competency, integrity and fitness of the person or persons designated in the application. Notwithstanding any other provision of law in the case of any railroad, street railway, canal or steamboat company, the operations of which extend from this State to any other, such person or persons need not be residents of the State of New Jersey. If the application is approved by the superintendent, the applicant shall then present the approved application to the Governor.

Every person so appointed and commissioned shall, in the several counties, possess all the powers of policemen and constables in criminal cases of the several municipalities in such counties and shall be compensated by the company.

When on duty, except when employed as a detective, he shall wear in plain view a metallic shield or device with the words "railway police," "canal police" or "steamboat police" as may be

appropriate, and the name or style of the company for whom he was appointed inscribed thereon.

Notwithstanding anything to the contrary herein contained, all appointments made prior to the effective date of this enactment which meet the requirements thereof shall be and they hereby are declared to be valid.

When any such company shall file in the offices of the Superintendent of State Police a notice that it no longer requires the service of such policeman, his power as such shall cease and determine.

b. The provisions of subsection a. of this section do not apply to the New Jersey Transit Corporation established by P.L.1979, c.150 (C.27:25-1 et seq.). The executive director of the corporation, through the chief of police of the New Jersey Transit Police Department, may appoint and employ transit police officers under the provisions of section 2 of this 1989 amendatory and supplementary act.

5. This act shall take effect 60 days from the date of enactment.

Approved January 16, 1992.

CHAPTER 387

AN ACT concerning limitations periods for various civil actions and amending and supplementing Title 2A of the New Jersey Statutes.

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

1. N.J.S.2A:14-22 is amended to read as follows:

Tolling of statute of limitations.

2A:14-22. a. If (1) any person against whom there is any of the causes of action specified in sections 2A:14-1 to 2A:14-5 and 2A:14-8, or if any surety against whom there is a cause of action specified in any of the sections of article 2 of this chapter, is not a resident of this State when such cause of action accrues, or removes from this State after the accrual thereof and before the expiration of the times limited in said sections, or if any corporation or corporate surety not organized under the laws of this State, against whom there is such a cause of action, is not represented in this State by any person or officer upon whom summons

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or other original process may be served, when such cause of action accrues or at any time before the expiration of the times so limited, and (2) it appears by affidavit of plaintiff's attorney or of any person having knowledge of the facts that, after diligent inquiry and effort, long-arm service cannot be effectuated, the time or times during which such person or surety is not residing within this State or such corporation or corporate surety is not so represented within this State shall not be computed as part of the periods of time within which such an action is required to be commenced by the section. The person entitled to any such action may commence the same after the accrual of the cause therefor, within the period of time limited therefor by said section, exclusive of such time or times of nonresidence or nonrepresentation.

b. A corporation shall be deemed represented for purposes of this section if the corporation has filed with the Secretary of State a notice designating a representative to accept service of process.

c. A person shall be deemed a resident for purposes of this section if such person has filed with the Secretary of State a notice designating a representative to accept service of process.

d. A designation by a corporation pursuant to subsection b. of this section or by a person pursuant to subsection c. of this section shall expose such corporation or person to suit only as to those causes of action as to which such corporation or person has sufficient contacts with this State to satisfy the requirements of due process of law.

C.2A:14-1.2 Civil actions commenced by the State, 10 years.

2. a. Except where a limitations provision expressly and specifically applies to actions commenced by the State or where a longer limitations period would otherwise apply, and subject to any statutory provisions or common law rules extending limitations periods, any civil action commenced by the State shall be commenced within ten years next after the cause of action shall have accrued.

b. For purposes of determining whether an action subject to the limitations period specified in subsection a. of this section has been commenced within time, no such action shall be deemed to have accrued prior to January 1, 1992.

c. As used in this act, the term "State" means the State, its political subdivisions, any office, department, division, bureau, board, commission or agency of the State or one of its political subdivisions, and any public authority or public agency, including, but not limited to, the New Jersey Transit Corporation and the University of Medicine and Dentistry of New Jersey.

3. This act shall take effect immediately, except that unincorporated persons shall have 60 days following the effective date within which to file notice pursuant to subsection c. of N.J.S.2A:14-22.

Approved January 16, 1992.

CHAPTER 388

AN ACT directing the Chancellor of Higher Education to develop a "Pledge's Bill of Rights" for members of college and university fraternities and sororities and supplementing chapter 3 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:3-24 Findings, declarations.

1. The Legislature finds and declares that the well-being and safety of college and university students who are members of or are attempting to become members of fraternities and sororities and other similar campus organizations requires a delineation of the responsibilities of those organizations in regard to rush or pledge activities and a declaration of a bill of rights for those students who participate in such activities.

C.18A:3-25 Pledge's Bill of Rights.

2. The Chancellor of Higher Education shall develop a "Pledge's Bill of Rights" which outlines acceptable and unacceptable behavior and activities in regard to the pledge or rushing activities of college and university fraternities and sororities and other similar campus organizations. In developing the bill of rights, the chancellor shall review the existing pledge and antihazing policies and procedures of public and independent institutions of higher education within the State and shall, as appropriate, incorporate those policies into the bill of rights. The chancellor shall make the "Pledge's Bill of Rights" available to each institution of higher education within the State.

C.18A:3-26 Information on hazing included.

3. The bill of rights developed by the chancellor pursuant to section 2 of this act shall include information on the criminal

penalties for hazing and aggravated hazing established pursuant to P.L.1980, c.169 (C.2C:40-3 et seq.).

C.18A:3-27 Distribution.

4. Every public and independent institution of higher education within the State shall ensure that any student who participates in pledging activities at that institution receives a copy of the "Pledge's Bill of Rights."

5. This act shall take effect immediately.

Approved January 16, 1992.

CHAPTER 389

AN ACT changing the definition of veteran to include certain members of the American Merchant Marine and amending various parts of the statutory law.

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

1. N.J.S.17B:28-3 is amended to read as follows:

Certificate to sell.

17B:28-3. a. No agent or solicitor employed by an agent heretofore or hereafter licensed shall be authorized to sell or act or aid in any manner in the negotiation of a contract on a variable basis until he has received a certificate to sell contracts on a variable basis from the commissioner, which certificate shall not be issued by the commissioner until such agent or solicitor has qualified by personal examination, to the satisfaction of the commissioner, as to his trustworthiness and competence to act as such agent or solicitor.

b. Before a first-time applicant for a license to solicit and negotiate contracts on a variable basis shall be admitted to the examination, the applicant shall be required to concurrently hold an agent's license granting authority to solicit and negotiate contracts of life insurance in this State or hold a license to act as a solicitor for such an agent. Application for a license must be made on such forms as the commissioner may prescribe.

c. The examination fee shall be $25.00 for each examination scheduled and such examination fee shall not be returned for any reason. The licensee fee shall be $25.00. A renewal license shall be issued biennially subject to the payment of the renewal license fee as required by this section and upon request of the insurer. Licenses issued in accordance with this section shall expire on April 30 of each odd numbered year.

d. No written examination shall be required of:

(1) An applicant who is the holder of a valid agent's or solicitor's license issued pursuant to this section by the commissioner or an applicant for a renewal of such license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetence in the conduct of his business as such agent or solicitor to the detriment of the public;

(2) An applicant whose license to do business as an agent or solicitor issued pursuant to this section has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than 3 years he must submit to and pass an examination in the same manner as a new applicant, except where the applicant is a veteran who meets the requirements of subsection (4) hereunder, when no re-examination shall be required;

(3) An applicant whose previous license issued pursuant to this section has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner;

(4) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States, including a citizen of New Jersey who served as a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of a license in New Jersey which authorized the applicant to solicit or negotiate contracts on a variable basis;

(5) Any individual seeking a variable license who, in the discretion of the commissioner, has satisfied the requirements and successfully passed all the examinations of the National Association of Securities Dealers, required to secure a registration to sell securities by the National Association of Securities Dealers in compliance and conformity with the rules and regulations promulgated by the Federal Securities and Exchange Commission.

e. The commissioner may issue a nonresident agent's or solicitor's license upon the application of a nonresident who is duly licensed under the law of the state of his residence or domicile to act as an agent or solicitor for contracts on a variable basis if said state does not prohibit residents of this State from acting as nonresident agents or solicitors therein, when:

(1) The applicant has shown by a statement from the proper official of the state in which he has his resident license that he is authorized to do business as an agent or solicitor in such state with authority for which the applicant is to be licensed under the New Jersey nonresident license.

(2) The applicant has paid the annual license fee as provided for in this section.

(3) The applicant has no place of business in this State.

(4) The commissioner may enter into reciprocal agreements with the appropriate supervisory insurance official of any other state waiving the written examination of any applicant resident in such other state, provided:

(a) A written examination is required of applicants for an agent's or solicitor's license in such other state.

(b) The appropriate supervisory insurance official of such other state certifies that the applicant holds a currently valid license as an agent or solicitor in such other state, and either,

(i) Passed a written examination,

(ii) Was the holder of an agent's or solicitor's license prior to the time a written examination was required, or

(iii) Was not required to take such examination by reason of provisions of the applicable agent's or solicitor's licensing law.

(c) That in such other state, a resident of this State is privileged to procure such an agent's or solicitor's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other state. If the laws of another state require the sharing of commissions with resident agents or solicitors of that state on applications for contracts on a variable basis written by nonresident agent or solicitors, then the same provision shall apply when resident agents or solicitors of that state, licensed as nonresident agents or solicitors of New Jersey write applications for contracts on a variable basis in this State.

2. Section 1 of P.L.1985, c.217 (C.18A:28-11.1) is amended to read as follows:

C.18A:28-11.1 Credit for military service.

1. In computing length of service for seniority purposes, every teaching staff member who, after July 1, 1940, has served or hereafter shall serve, in the active military or naval service of the United States or of this State, including active service in the women's army corps, the women's reserve of the naval reserve, or any similar organization authorized by the United States to serve with the army or navy, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service, or who was a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, shall be entitled to receive equivalent years of employment or seniority credit for that service as if the member had been employed for the same period of time in some publicly owned and operated college, school or institution of learning in this or any other state or territory of the United States, except that the period of that service shall not be credited toward more than four years of employment or seniority credit. Any military or naval service shall be credited towards this employment or seniority credit including service that occurred prior to the member's employment as a teaching staff member.

3. N.J.S.18A:28-12 is amended to read as follows:

Reemployment in order of seniority.

18A:28-12. If any teaching staff member shall be dismissed as a result of such reduction, such person shall be and remain upon a preferred eligible list in the order of seniority for reemployment whenever a vacancy occurs in a position for which such person shall be qualified and he shall be reemployed by the body causing dismissal, if and when such vacancy occurs and in determining seniority, and in computing length of service for reemployment, full recognition shall be given to previous years of service, and the time of service by any such person in or with the military or naval forces of the United States or of this State, subsequent to September 1, 1940, and the time of service of any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, shall be credited to him as though he had been regularly employed in such a position within the district during the time of such military or naval service, except that the

period of that service shall not be credited toward more than four years of employment or seniority credit.

4. N.J.S.18A:66-2 is amended to read as follows:

Definitions.

18A:66-2. Definitions

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 him or in his behalf, including interest credited to January 1, 1956, standing to the credit of his 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 his 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 his 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 annually by the State Treasurer after consultation with the directors of the Divisions of Investment and Pensions and the actuary of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

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 repre-

sents 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," 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 his 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 September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day service as herein provided;

(11) Korean conflict after June 23, 1950, and on or prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he 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 he completed the 90-day service between said dates as herein provided;

(12) Vietnam conflict, after December 31, 1960, and on or prior to August 1, 1974, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day 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 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.

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 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 depen-

dency of such a parent will be considered terminated 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.

5. N.J.S.18A:66-104 is amended to read as follows:

Definition of "veteran".

18A:66-104. "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 his 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 board of trustees evidence of such record of service in form and content satisfactory to said board of trustees:

(a) The Indian wars and uprisings during any of the periods recognized by the war department of the United States as periods of active hostility;

(b) The Spanish-American war between April 20, 1898, and April 11, 1899;

(c) 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;

(d) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(e) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(f) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(g) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(h) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(i) World war I, between April 6, 1917, and November 11, 1918;

(j) World war II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day service as herein provided.

(k) Emergency, at any time 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 he was assigned (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 his 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 he has completed the 90-day 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.

6. Section 1 of P.L.1945, c.202 (C.26:6-4.1) is amended to read as follows:

C.26:6-4.1 Certificate of death.

1. On or before the tenth day of each month, the State Department of Health shall certify to the supervisor of veterans' interment in each of the respective counties of the State, the name of each deceased veteran and of each deceased 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 for whom a certificate of

death, in which the place of burial, cremation or removal is stated as being within such county, has been filed with the State Department of Health during the preceding month, together with the date and place of burial, cremation or removal of such deceased veteran, and the war in which said deceased veteran served.

7. Section 2 of P.L.1945, c.202 (C.26:6-4.2) is amended to read as follows:

C.26:6-4.2 Undertaker to make inquiry, report, penalty for failure to report.

2. Whenever a dead body is transported from outside the State into this State for burial or other final disposition in this State, the person in charge of any premises in which the interment or cremation of such dead body is made, shall make due and diligent inquiry in order to determine whether the deceased person to be interred or cremated was a veteran of any war or was a member of the American Merchant Marine who served during World War II and has been declared by the United States Department of Defense to be eligible for federal veterans' benefits, and if so, the war in which said deceased veteran served. If such interment is made in a cemetery or burial ground having no person in charge thereof, then the undertaker making the interment of such dead body shall make such inquiry.

On or before the tenth day of each month the person in charge of any such premises, or if the interment is made in a cemetery or burial ground having no person in charge, then the undertaker who made any such interment, shall certify to the supervisor of veterans' interment in the county in which such interment or cremation was made, the name of each deceased veteran who has been interred or cremated in said premises during the preceding month, together with the date and place of burial or cremation of such deceased veteran, and the war in which said deceased veteran served.

Any failure so to do on the part of the officers of any cemetery association or the undertaker shall subject the violator to a penalty of fifty dollars ($50.00) to be recovered in a civil action in the name of the supervisor of veterans' interment of any county wherein the violation occurs.

8. Section 6 of P.L.1950, c.250 (C.27:7-44.8) is amended to read as follows:

C.27:7-44.8 Power to sell land.

6. The State Highway Commissioner shall have power to sell any or all lands acquired pursuant to this act, or any portion or

portions thereof, or any structure or structures relocated thereon, or to rent the same for the use to which they were devoted prior to such relocation; provided, however, that:

(a) All sales shall be at public auction;

(b) All rentals shall be made in the following order of preference: to the original owner or user of a relocated structure or structures; to an original user of a relocated structure or structures; to an owner user of a structure or structures on the property acquired for highway purposes, which was impractical to remove; to a tenant of any structure or structures on the property acquired for highway purposes; to any war veteran, including any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, residing in the municipality in which the structure or structures was relocated and who, under the Constitution, qualifies for tax exemption, or the widow of such veteran. As between persons within the same preference category, preference shall be determined upon a competitive basis, if practicable; otherwise as the commissioner shall determine. In the event that no person or persons having preference as hereinabove provided, shall desire to rent property acquired pursuant to this act, the State Highway Commissioner may rent the same in whatever manner will, in his judgment, best serve the interest of the State.

9. R.S.38:16-1 is amended to read as follows:

Removal of veterans from office or position.

38:16-1. No person now holding any employment, position or office under the government of this State, or the government of any county or municipality, including any person employed by a school board or board of education, or who may hereafter be appointed to any such employment, office or position, whose term of employment, office or position is not now fixed by law, and receiving a salary from such State, county or municipality, including any person employed by a school board or board of education, who has served as a soldier, sailor, marine or nurse, in any war of the United States, or in the New Jersey State militia during the period of the World War, or who served as a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and has been honorably

discharged from the service of the United States or from such militia, or from such merchant marine service, prior to or during such employment in or occupancy of such position or office, shall be removed from such employment, position or office, except for good cause shown after a fair and impartial hearing, but such person shall hold his employment, position or office during good behavior, and shall not be removed for political reasons.

For the purposes of this section no term of office, position or employment of any person shall be deemed to be fixed by law or coterminous with that of the employing or appointing board or body by reason of the fact that such person was or is appointed or employed by a noncontinuous board or body; provided, however, that in no event is it intended that this act shall apply to appointments made for a fixed or stated period of time.

10. Section 1 of P.L.1944, c.249 (C.38:16-4) is amended to read as follows:

C.38:16-4 Guaranteed employment until after a hearing.

1. No person now holding any employment, position or office under a commission, elected or appointed by the governing bodies of two or more municipalities, which, by legislative authority, have entered into an agreement for the election or appointment of such commission, whose term of employment, office or position is not now fixed by law, who has served as a soldier, sailor, marine or nurse, in any war of the United States, or who served as a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and has been honorably discharged from the service of the United States, prior to such employment in or occupancy of such position or office, shall be removed from such employment, position or office, except for good cause shown after a fair and impartial hearing, but such person shall hold his employment, position or office during good behavior, and shall not be removed for political reasons.

For the purposes of this section no term of office, position or employment of any person shall be deemed to be fixed by law or coterminous with that of the employing or appointing board or body by reason of the fact that such person was or is appointed or employed by a noncontinuous board or body.

11. R.S.38:17-1 is amended to read as follows:

Interment of indigent veterans; definitions.

38:17-1. The board of chosen freeholders in each of the counties shall designate a proper authority, other than that designated by law for the care of paupers and the custody of criminals, who shall cause to be interred the bodies of all honorably discharged soldiers, sailors, marines or nurses who served, or shall have served, in the Army or Navy of the United States in time of emergency, or during any war in which the United States has been engaged, is engaged or shall be engaged, including the bodies of all honorably discharged members of the American Merchant Marine who served during World War II and have been declared by the United States Department of Defense to be eligible for federal veterans' benefits, who shall die without leaving means sufficient to defray funeral expenses. The expense of such funeral shall not exceed in any case the sum of $250.00.

Such authority shall also, upon application by an interested party, cause to be interred the bodies of members of the Armed Forces of the United States who died in active service during the second World War, or in time of emergency. The expense of such interment shall not in any case exceed the sum of $50.00.

As used in this act the term "in time of emergency" shall mean and include any time (a) after June 23, 1950, and prior to January 31, 1955, and (b) during the period in which warlike conditions exist in the southeast Asia area commencing as of January 1, 1961 and terminating on May 7, 1975.

For the purposes of this act active service in the "southeast Asia area" means and includes such service in any area in southeast Asia in which armed conflict or warlike conditions exist as determined by the President and includes not only land based service in said area but also service in said area with the United States Navy and Air Force regardless of where the individual's ship or unit is based.

12. R.S.38:17-2 is amended to read as follows:

Appointment, supervisor of veterans' interment.

38:17-2. The board of chosen freeholders in each of the counties shall appoint a suitable person who shall be a resident of the county, as supervisor of veterans' interment; provided, that in making such appointment an honorably discharged soldier, sailor or marine who served in the Army, Navy or Marine Corps of the United States during any war in which the United States has been engaged, or an 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, shall be appointed. The supervisor of veterans' interment shall be paid such annual salary as may be fixed by the board of chosen freeholders of each county. The salary shall be paid in semimonthly installments by the county treasurer. Where any person has served as a superintendent of soldiers' burials or supervisor of veterans' interment, or as either or both, in any county for a period in the aggregate of two or more years prior to September 1, 1949, such superintendent of soldiers' burials or supervisor of veterans' interment shall be deemed to be a suitable person and may be appointed by the board of chosen freeholders as a supervisor of veterans' interment without any competitive examination.

13. R.S.38:18-1 is amended to read as follows:

Soldier, time of emergency defined.

38:18-1. As used in this chapter the word "soldier" means and includes any officer, soldier, sailor, marine, airman, nurse or any other person, male or female, regularly enlisted or inducted, who was or shall have been a part of the military or naval forces of the United States, and who took part in any war in which the United States was engaged, or who took part or shall have taken part in the present wars with the governments of Japan, Germany and Italy, or any of them, including any member of the American Merchant Marine who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, or who served or shall have served in the active military or naval service of the United States in time of emergency as herein defined, and who was a resident of this State at the time he was or shall be commissioned, enlisted, inducted, appointed or mustered into the military or naval service of the United States, and who has been or shall have been given an honorable or ordinary discharge or release therefrom, and continues to be a resident of this State.

As used herein the term "in time of emergency" shall mean and include any time after June 23, 1950, and on or prior to January 31, 1955.

14. Section 1 of P.L.1947, c.263 (C.38:18A-1) is amended to read as follows:

C.38:18A-1 "Veteran" and "in time of emergency" defined.

1. As used in this act, the word "veteran" means and includes any officer, soldier, sailor, marine, airman, nurse, or any other person,

male or female, regularly enlisted or inducted, who was or shall have been a part of the active military or naval forces of the United States, and who took part or shall have taken part in any war in which the United States was engaged, or who took part or shall taken part in the wars with the governments of Japan, Germany and Italy, or any of them, including any member of the American Merchant Marine who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, or who served or shall have served in the active military or naval service of the United States in time of emergency as herein defined, and who was a resident of this State at the time he was or shall be commissioned, enlisted, inducted, appointed or mustered into the active military or naval service of the United States, and who has been or shall have been given a discharge or release therefrom under conditions other than dishonorable and continues to be a resident of this State.

As used in this act the term "in time of emergency" shall mean (a) the Korean conflict and include any time after June 23, 1950, and prior to July 27, 1953 and (b) the Vietnam conflict and include any time after December 31, 1960, and prior to August 1, 1974.

15. Section 1 of P.L.1942, c.252 (C.38:23-5) is amended to read as follows:

C.38:23-5 No impairment to pension rights because of military service.

1. No person holding any office, position or employment under the government of the State of New Jersey or of any county, municipality, school district or other political subdivision of the State, or under any board, body, agency or commission of the State or of any county, municipality or school district, who, heretofore and subsequent to July 1, 1940, entered or hereafter, in time of war, shall enter, or heretofore or hereafter in time of emergency entered or shall enter, the active military or naval service of the United States or the active service of the Women's Army Auxiliary Corps, the Women's Reserve of the Naval Reserve or any similar organization authorized by the United States to serve with the Army or Navy, including service as a member of the American Merchant Marine during World War II declared by the United States Department of Defense to be eligible for federal veterans' benefits, and who, at the time of such entry was or is a member in good standing of any pension, retirement, or annuity fund, shall suffer the loss or impairment of any of the rights, benefits or privileges accorded by the laws govern-

ing such pension, retirement or annuity funds; and the time spent in such service by any such person shall be considered as time spent in the office, position or employment held by him at the time of his entry into such service, in all calculations of the amount of pension to which he is entitled and of the years of service required to entitle him to retire; provided, however, that in the event of the death or disability of such person while in such service the pension to be paid such person or his dependents shall be the amount, if any, remaining after calculating the amount of pension that would be paid if such person had continued to hold such office, position or employment until the time of his death or disability and had continued to receive the same compensation as he received at the time of his entry into such service.

As used in this act the term "in time of emergency" shall mean and include any time after June 23, 1950, and on or prior to January 31, 1955.

16. Section 1 of P.L.1944, c.98 (C.38:23A-2) is amended to read as follows:

C.38:23A-2 Age limits extended for veterans.

1. When the qualifications for any examination or test for, or appointment or election to any office, position or employment under the government of this State, or of any county, municipality, school district or other political subdivision of this State, or under any board, body, agency or commission of this State, or of any county, municipality or school district, includes a maximum age limit, any person who, heretofore and subsequent to July 1, 1940, entered or hereafter, in time of war, shall enter the active military or naval service of the United States or the active service of the Women's Army Corps, the Women's Reserve of the Naval Reserve or any similar organization authorized by the United States to serve with the Army or Navy, including service as a member of the American Merchant Marine during World War II which is declared by the United States Department of Defense to be eligible for federal veterans' benefits, shall be deemed to meet such maximum age requirement, if his actual age, less the period of such service, would meet the maximum age requirement in effect on the date the person entered into such service of the United States. As used in this section the term "war" shall include the conflicts in Viet Nam and Korea.

17. Section 1 of P.L.1946, c.51 (C.38:23A-4) is amended to read as follows:

C.38:23A-4 "Veteran" and "present emergency" defined.

1. The word "veteran" as used in this act shall mean any person who served in the active military or naval service of the United States on or after September 16, 1940, and prior to the termination of the war by lawful federal authority, or during the present emergency, including any member of the American Merchant Marine who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, who was a resident of this State when he entered such active service, who shall have been discharged, or released, therefrom under conditions other than dishonorable and who either shall have served 90 days or shall have been discharged or released from active duty by reason of an actual service-incurred injury or disability.

The term "present emergency" as used in this act shall mean and include any time after June 23, 1950, and on or prior to January 31, 1955.

18. R.S.38:25-5 is amended to read as follows:

Honorable discharges of veterans recorded without cost.

38:25-5. Each county clerk, or the register of deeds in counties having the same, shall record, without costs, when delivered to him for that purpose, in large and bound books of good paper to be provided for that purpose, and carefully preserved and indexed, and to be called and backed "honorable discharges of veterans," the honorable discharge or the certificate in lieu of an honorable discharge, and the record of service or notice of separation showing the record of service, as issued by the proper governmental agency of the Federal Government, of any soldier, sailor, marine or nurse who has or may hereafter serve in the army, navy, marine or air corps of the United States, or of any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

19. Section 1 of P.L.1938, c.207 (C.38:25A-1) is amended to read as follows:

C.38:25A-1 Poppy recognized souvenir.

1. After the passage of this act the poppy or its replica in any material form shall be the recognized souvenir of the deceased

veterans of the World Wars and military conflicts involving the Armed Forces of the United States and deceased members of the American Merchant Marine who served during World War II and have been declared by the United States Department of Defense to be eligible for federal veterans' benefits.

20. Section 3 of P.L.1938, c.207 (C.38:25A-3) is amended to read as follows:

C.38:25A-3 Sale restricted to veterans' organizations.

3. The sale and offering for sale of such poppy or poppies as heretofore mentioned shall be restricted to veterans' organizations chartered by an Act of Congress and to their auxiliaries, where such funds are devoted exclusively for the benefit of veterans of the World Wars and other military conflicts or for the benefit of members of the American Merchant Marine during World War II who are declared by the United States Department of Defense to be eligible for federal veterans' benefits and their families and such veterans' organizations in the State of New Jersey.

21. N.J.S.38A:3-10 is amended to read as follows:

Fees for services.

38A:3-10. The Adjutant General may demand and receive, for the services herein enumerated, except for those in proof of pension, establishment of veteran status, exemption from jury duty, or in lieu of lost discharges, the following fees:

(a) For every search made in his office for the military record of any member or former member of the armed forces, including any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, the sum of $1.00.

(b) For the furnishing of every certified copy of such record, the sum of $2.00.

The Adjutant General shall keep a true record and account of fees received under the provisions of this section and shall pay the same into the State Treasury in the manner prescribed by law.

22. N.J.S.38A:15-3 is amended to read as follows:

Awards.

38A:15-3. The Adjutant General may procure and issue such service medals, ribbons, clasps, or similar devices as are authorized by the Legislature to be awarded to residents of the State of New

Jersey who served on active duty in time of war or emergency or who served as members of the American Merchant Marine during World War II and are declared by the United States Department of Defense to be eligible for federal veterans' benefits.

23. R.S.40:20-26 is amended to read as follows:

Terms of officers; exceptions.

40:20-26. The terms of office of all officers then holding office under appointment by the board of chosen freeholders existing in any county at the time of reorganization thereof under sections 40:20-20 to 40:20-35 of this title in such county, shall not be affected thereby but the officers then holding office shall continue in office during the terms for which they were originally appointed or elected and until their successors shall have been appointed or elected and shall have duly qualified. Thereafter all offices to be filled by the board of chosen freeholders shall be for the term of three years.

Nothing in this section contained shall apply to or affect any honorably discharged soldier, sailor or marine of the United States, or 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, or the widow of such soldier, sailor, marine or member of the American Merchant Marine, in office at the time of the adoption of said sections 40:20-20 to 40:20-35 by any county. All such persons shall continue and remain in their respective offices during good behavior, and shall be removed only for cause.

Nothing in this section contained shall apply to or affect any officer coming within the provisions of section 51:1-53 of the title Standards, Weights, Measures and Containers.

24. Section 1 of P.L.1943, c.190 (C.40:83-6) is amended to read as follows:

Tenure of veterans in office of city engineer.

1. Any person being an honorably discharged soldier, sailor or marine, who served in the Army, Navy or Marine Corps of the United States in any war of the United States, or an 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, and holding the office, position or employment of city engineer in any city governed under the municipal manager form of government

law, who heretofore has held, hereafter shall hold or heretofore and hereafter shall have held said office, position or employment continuously for a period of 15 years from the date of his original appointment as city engineer of such municipality under an indefinite term or under fixed terms or under both indefinite and fixed terms, while said city was governed under said law or under any other law or both, shall hold his said office, position or employment during good behavior and efficiency and shall not be removed therefrom except for good cause and then only upon a sworn complaint, specifying the cause, filed with the city manager of said municipality and after a public, fair and impartial hearing before said city manager.

25. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to read as follows:

C.40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities, for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and not for commercial business, trade or manufacture, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or board of fire commissioners or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire company may be leased by

such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for consideration, a part of which may be an agreement by the organization or association to render service or to provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) A duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or naval forces of the United States in any war in which the United States was engaged, including any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with powers to convey said lands and premises to the paraplegic veteran or veterans on whose behalf said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities or one or more counties for the construction or maintenance thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the acquisition of publicly owned historic sites for their restoration, preservation, improvement and utilization for the benefit of the general public, or

(g) Any duly incorporated nonprofit cemetery organization or association serving the residents of the municipality or county, or

(h) Any duly incorporated nonprofit organization for the principal purpose of the education or treatment of persons afflicted with developmental disabilities including cerebral palsy, or

(i) Any county or municipal sewerage authority serving the residents of the county or municipality, for the use thereof for sewerage authority purposes, or

(j) Any duly incorporated nonprofit organization for the purpose of building or rehabilitating residential property for resale. Any profits from the resale of the property shall be applied by the nonprofit organization to the costs of acquiring and rehabilitating other residential property in need of rehabilitation owned by the county or municipality, or

(k) Any duly incorporated nonprofit organization or association, other than a political, partisan, sectarian, denominational or religious organization or association, which was established exclusively for the purpose of providing the youth of the county or municipality with educational, recreational, medical or social services, or

(l) Any duly incorporated nonprofit housing corporation or any limited-dividend housing corporation or housing association organized pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the purpose of constructing housing for low or moderate income persons or families or handicapped persons.

26. R.S.43:4-1 is amended to read as follows:

Applies to veterans.

43:4-1. This chapter shall apply to and include persons serving in and honorably discharged from the military or naval service of the United States, including nurses, in any war in which the United States is or has been engaged, and members of the American Merchant Marine during World War II who have been honorably discharged and are declared by the United States Department of Defense to be eligible for federal veterans' benefits, and in connection with the American punitive expedition or other intervention campaign or trouble with the Republic of Mexico during the administration of President Woodrow Wilson; provided, such designated persons shall have attained the age of 62 years or become incapacitated for the duties of their office or position or employment.

27. R.S.43:4-2 is amended to read as follows:

Retirement of veterans; pension to widow.

43:4-2. When an honorably discharged soldier, sailor or marine or an 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 vet-

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erans' benefits has or shall have been for 20 years continuously or in the aggregate in office, position or employment of this State or of a county, municipality or school district or board of education, the body, board or officer having power to appoint his successor in case of vacancy may, with his assent, order his retirement from such service, or he shall be retired on his own request.

When an honorably discharged soldier, sailor or marine having 40 years of continuous service in office, position or employment in this State shall, while serving in the war between the United States and Germany and Japan, lose his life in the performance of his duties, there shall be paid to his widow, during the term of her natural life, or so long as she remains a widow, a pension to which such veteran would have been entitled had he retired under the provisions hereof. This act shall be retroactive to include such veterans who lost their lives in the performance of duty within one year prior to the passage hereof. Such pension shall be calculated and paid in the manner provided by section 43:4-3 of the Revised Statutes. There shall be deducted from such pension payments any pension payment made or made available to such widow from the United States Government on account of the services of such veteran or because of the loss of his life in the performance of such duty.

28. Section 1 of P.L.1941, c.399 (C.43:9-6.1) is amended to read as follows:

C.43:9-6.1 Withdrawal by war veteran; payments received with interest.

1. An employee of any county, who is a veteran of any war, or who was a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and is a member of any retirement system may, at any time, apply to withdraw from the system during the continuance of his employment. Upon his making application, of which 10 days' notice shall be given, he shall receive, upon demand, the amount of his payments with interest thereon at the rate of four per centum (4%) per annum, without prejudice to his rights as a veteran to any benefit to which he may be entitled under any other law.

29. 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 him or on his behalf, standing to the credit of his 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 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.

f. "Parent" shall mean the parent of a member 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 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 5 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 5-year qualification shall be waived.

h. "Final compensation" means the average annual compensation for which contributions are made for the 3 years of creditable service in New Jersey immediately preceding his retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any 3 fis-

cal years of his or her membership providing the largest possible benefit to the member or his 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," 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 annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

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 his 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 September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day service as herein provided.

(11) Korean conflict after June 23, 1950, and on or prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided.

(12) Vietnam conflict after December 31, 1960, and on or prior to August 1, 1974, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90 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 5 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 5-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 work day 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.

30. Section 1 of P.L.1983, c.391 (C.43:16A-11.7) is amended to read as follows:

C.43:16A-11.7 Definition of veteran.

1. For purposes of this act "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 his 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 September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day service as herein provided.

(11) Korean conflict after June 23, 1950, and on or prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided.

(12) Vietnam conflict after December 31, 1960, and on or prior to August 1, 1974, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (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 his 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 he has completed the 90 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.

31. Section 1 of P.L.1947, c.132 (C.45:8A-1) is amended to read as follows:

C.45:8A-1 Professional librarian's certificate.

1. The State Board of Examiners shall, upon application, issue to any person a professional librarian's certificate to act as a professional librarian if he shall be a graduate from a library school accredited by the State Board of Education and shall meet such other requirements as shall be fixed by the State Board of Education for the issuance of such certificates except that the State Board of Examiners shall, upon application, issue such certificate to any person holding, at the time this act becomes effective, a professional office, or position, that requires for adequate performance the knowledge and techniques of library science as taught in accredited library schools, in any library within this State supported in whole or in part by public funds, except in a library under the charge and control of a board of education, provided such application is made within three years from the effective date of this act or in the case of a veteran of World War II or a member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, such a certificate shall be issued to any person holding such a professional office or position, who has held the same since November 1, 1957, provided application is made within 30 days of the enactment of this 1991 amendatory act.

32. Section 1 of P.L.1946, c.177 (C.45:14-7.2) is amended to read as follows:

C.45:14-7.2 Credit given veteran for practical experience.

1. Any applicant for the registered pharmacist examinations in this State who subsequent to September 16, 1940, entered the active

military or naval service of the United States, including any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and who, at the time of such entry, was a graduate of a pharmacy course given in an approved school or college of pharmacy, shall be given credit against the requirement of one year of practical experience, subsequent to graduation, for such time served in the active military or naval service of the United States or as a member of the American Merchant Marine upon presentation of proof of his discharge or release from such service under conditions other than dishonorable; provided, however, that such applicant completes all of the other requirements for registration as provided for under section 45:14-7 of the Revised Statutes, including the passing of the written examinations in the theoretical subjects, and presents himself or herself for the examination in practical pharmacy and laboratory work within a period of two years subsequent to the date of such discharge or release from such military or naval service or such declaration of eligibility for federal veterans' benefits by the Department of Defense. The board may make such rules and regulations as may be necessary therefor.

33. R.S.45:15-11 is amended to read as follows:

Disabled war veterans; granting of licenses.

45:15-11. Any citizen of New Jersey who has served in the military or naval forces of the United States in any war or who served as a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, who has been honorably discharged, and who, having been wounded or disabled in line of duty, has completed a program of courses in real estate in any college or school approved by the Department of Education of the State of New Jersey, and who has successfully passed an examination conducted by said commission qualifying him to operate as a real estate broker or a real estate salesman, may, upon presentation of a certificate certifying that he has completed such program of courses as aforesaid, obtain without cost from the commission and without qualification through apprenticeship, a license to operate as a real estate broker or a real estate salesman, as the case may be, which licenses shall be the same as other licenses issued under this article. Renewal of licenses may be granted under this section for each ensuing year, upon request, without annual fees therefor.

34. a. The special veterans' retirement allowance for which a retirant of the Teachers' Pension and Annuity Fund, the Board of Education Employees' Retirement Fund of Essex County, the Public Employees' Retirement System, or the Police and Firemen's Retirement System, or a retirant under R.S.43:4-1 et seq., who was a member of the American Merchant Marine during World War II would qualify pursuant to this amendatory act, P.L.1991, c.389, is applicable to retirements on or after the effective date of that act, and to retirements after January 19, 1988 and prior to the effective date of that act but only for benefit payments on or after the effective date of that act.

b. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) are not applicable to the benefit increases pursuant to this amendatory act, P.L.1991, c.389. For retirees and beneficiaries who receive benefit increases, the benefit year for the purposes of the Pension Adjustment Act (P.L.1958, c.143; C.43:3B-1 et seq.) is the year that this act, P.L.1991, c.389, takes effect. The pension adjustment benefits being paid to these retirees and beneficiaries on the effective date of that act shall continue to be paid to them as a fixed supplement. The fixed supplement shall not be used to determine pension adjustment benefits.

35. This act shall take effect upon the enactment into law of P.L.1991, c.382 (C.52:9HH-1 et seq.).

Approved January 16, 1992.

CHAPTER 390

AN ACT conforming the dates of World War II, the Korean Conflict and Vietnam era as found in the laws of this State to the dates as found in federal law, providing for the extension of eligibility for certain benefits to veterans of certain peacekeeping operations of the Armed Forces of the United States and amending and supplementing various parts of the statutory law.

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

1. N.J.S.11A:5-1 is amended to read as follows:

Definitions.

11A:5-1. Definitions. As used in this chapter:

a. "Disabled veteran" means any veteran who is eligible to be compensated for a service-connected disability from war service by the United States Veterans Administration or who receives or is entitled to receive equivalent compensation for a service-connected disability which arises out of military or naval service as set forth in this chapter and who has submitted sufficient evidence of the record of disability incurred in the line of duty to the commissioner on or before the closing date for filing an application for an examination;

b. "Veteran" means any honorably discharged soldier, sailor, marine or nurse who served in any army 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 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 that service through voluntary enlistment, and was a citizen of the United States at the time of the enlistment, and who did not renounce or lose his or her United States citizenship; or any 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 been discharged or released under other than dishonorable conditions from that service in any of the following wars or conflicts and who has presented to the commissioner sufficient evidence of the record of service on or before the closing date for filing an application for an examination:

(1) World War I, between April 6, 1917 and November 11, 1918;

(2) World War II, on or after September 16, 1940, who shall have served at least 90 days beginning on or before December 31, 1946 in such active service, exclusive of any period of assignment 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 as a cadet or midshipman at one of the service academies; except that any person receiving an actual service-incurred injury or disability shall be classed a veteran whether or not that person has completed the 90-day service;

(3) Korean conflict, on or after June 23, 1950, who shall have served at least 90 days beginning on or before January 31, 1955,

in active service, exclusive of any period of assignment 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 as a cadet or midshipman at one of the service academies; except 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;

(4) Vietnam conflict, on or after December 31, 1960, who shall have served at least 90 days beginning on or before May 7, 1975, in active service, exclusive of any period of assignment 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 as a cadet or midshipman at one of the service academies, and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, or exclusive of any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; except 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 provided;

(5) 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;

(6) 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;

(7) 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;

(8) 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.

c. "War service" means service by a veteran in any war or conflict described in this chapter during the periods specified.

2. 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 has 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 annually by the State Treasurer after consultation with the directors of the Divisions of Investment and Pensions and the actuary of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

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," 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 terminated 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.

C.18A:66-71.1 Veterans' retirement allowance.

3. a. A retiree of the system who meets the definition of a veteran pursuant to this act, or the surviving spouse of a retiree, shall be eligible to receive the special veterans' retirement allowance pursuant to N.J.S.18A:66-71 in lieu of the retirement allowance that a retiree, or the surviving spouse of a retiree, is receiving on the effective date of this act.

b. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not apply to the benefit increase that results from this 1991 amendatory and supplementary act, and the annual cost of living adjustment received by widows and widowers under P.L.1958, c.143 (C.43:3B-1 et seq) shall be calculated as of the date of retirement of a retiree of the system. The State shall pay the additional costs arising from any increase in the cost of living adjustment received by a retiree of the system who meets the definition of a veteran as a result of this act or the surviving spouse of a retiree.

c. No retiree of the system who meets the definition of a veteran pursuant to this act, or the surviving spouse of a retiree, shall be granted a retroactive payment based upon the difference between the retirement allowance that the retiree of the system, or the surviving spouse of the retiree, would have received if that retiree of the system had met the definition of a veteran on the date of retirement and the retirement allowance that the retiree of the system, or the surviving spouse of the retiree, has received from the date of retirement to the effective date of this act.

4. 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," 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 annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

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 subparagraph 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 work day 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.

C.43:15A-61.1 Veterans' retirement allowance.

5. a. A retiree of the system who meets the definition of a veteran pursuant to this act, or the surviving spouse of a retiree, shall be eligible to receive the special veterans' retirement allowance pursuant to section 61 of P.L.1954, c.84 (C.43:15A-61) in lieu of the retirement allowance that a retiree, or the surviving spouse of a retiree, is receiving on the effective date of this act.

b. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not apply to the benefit increase that results from this 1991 amendatory and supplementary act, and the annual cost of living adjustment received by widows and widowers under P.L.1958,

c.143 (C.43:3B-1 et seq) shall be calculated as of the date of retirement of a retiree of the system. The State shall pay the additional costs arising from any increase in the cost of living adjustment received by a retiree of the system who meets the definition of a veteran as a result of this act or the surviving spouse of a retiree.

c. No retiree of the system who meets the definition of a veteran pursuant to this act, or the surviving spouse of a retiree, shall be granted a retroactive payment based upon the difference between the retirement allowance that the retiree of the system, or the surviving spouse of the retiree, would have received if that retiree of the system had met the definition of a veteran on the date of retirement and the retirement allowance that the retiree of the system, or the surviving spouse of the retiree, has received from the date of retirement to the effective date of this act.

6. Section 1 of P.L.1983, c.391 (C.43:16A-11.7) is amended to read as follows:

C.43:16A-11.7 Definition of veteran.

1. For purposes of this act "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 subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not the member 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.

7. Section 1 of P.L.1963, c.171 (C.54:4-8.10) is amended to read as follows:

C.54:4-8.10 Definitions.

1. As used in this act:

(a) "Active service in time of war" means active service at some time during one of the following periods:

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;

The 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;

The 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;

The 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;

The Vietnam conflict, December 31, 1960, to May 7, 1975;

The Korean conflict, June 23, 1950 to January 31, 1955;

World War II, September 16, 1940 to December 31, 1946;

World War I, April 6, 1917 to November 11, 1918, and in the case of service with the United States military forces in Russia, April 6, 1917 to April 1, 1920;

Spanish-American War, April 21, 1898 to August 13, 1898;

Civil War, April 15, 1861 to May 26, 1865; or, as to any subsequent war, during the period from the date of declaration of war to the date on which actual hostilities shall cease.

(b) "Assessor" means the assessor, board of assessors or any other official or body of a taxing district charged with the duty of assessing real and personal property for the purpose of general taxation.

(c) "Collector" means the collector or receiver of taxes of a taxing district.

(d) "Honorably discharged or released under honorable circumstances from active service in time of war," means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked "dishonorable," "undesirable," "bad conduct," "by sentence of general court martial," "by sentence of summary court martial" or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the armed forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be included in the aforementioned phrase.

(e) "Pre-tax year" means the particular calendar year immediately preceding the "tax year."

(f) "Resident" means one legally domiciled within the State of New Jersey. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this act. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant.

(g) "Tax year" means the particular calendar year in which the general property tax is due and payable.

(h) "Veteran" means any citizen and resident of this State honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

(i) "Veteran's deduction" means the deduction against the taxes payable by any person, allowable pursuant to this act.

(j) "Surviving spouse" means the surviving wife or husband of any of the following, while he or she is a resident of this State, during widowhood or widowerhood:

1. A citizen and resident of this State who has died or shall die while on active duty in time of war in any branch of the Armed Forces of the United States; or

2. A citizen and resident of this State who has had or shall hereafter have active service in time of war in any branch of the Armed Forces of the United States and who died or shall die while on active duty in a branch of the Armed Forces of the United States; or

3. A citizen and resident of this State who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

(k) "Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey which entitles a shareholder thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association;

(l) "Mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub. L.76-849 (42 U.S.C. § 1521 et seq.), which acquired a National Defense Housing Project pursuant to that act.

8. This act shall take effect upon the enactment into law of P.L.1991, c.382 (C.52:9HH-1 et seq.).

Approved January 16, 1992.

CHAPTER 391

AN ACT creating immunity from liability for owners of firing ranges and supplementing P.L.1971, c.418 (C.13:1G-1 et seq.).

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

C.13:1G-21.1 Definitions.

1. As used in this act:

"Handgun" means a pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

"Rifle" means a firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

"Shotgun" means a firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

"Skeet shooting" means shooting with a shotgun at a succession of clay pigeons sprung at different angles into the air from a trap.

"Trapshooting" means shooting with a shotgun at a clay pigeon sprung into the air from a trap.

C.13:1G-21.2 Immunity from liability.

2. Notwithstanding the provisions of section 21 of P.L.1971, c.418 (C.13:1G-21) to the contrary, an owner of a handgun, rifle, shotgun, skeet shooting or trapshooting range in this State shall be immune from liability where the liability is based upon noise resulting from normal operation of the range in any civil proceeding, or in any proceeding brought pursuant to the "Noise Control Act of 1971," P.L.1971, c.418 (C.13:1G-1 et seq.).

Nothing in this section shall be deemed to grant immunity to any person causing damage by his willful, wanton, or grossly negligent act of commission or omission.

C.13:1G-21.3 Applicability.

3. This act shall apply only to a handgun, rifle, shotgun, skeet shooting or trapshooting range located in this State which has been maintained continuously in the same location since January 24, 1972.

4. This act shall take effect immediately.

Approved January 16, 1992.

CHAPTER 392

AN ACT concerning the membership and chairperson of the New Jersey Economic Development Authority and amending P.L.1974, c.80.

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

1. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as follows:

C.34:1B-4 New Jersey Economic Development Authority.

4. a. There is hereby established in, but not of, the Department of Commerce and Economic Development a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Commerce and Economic Development, the Commissioner of Labor, the Commissioner of Environmental Protection, the Commissioner of Community Affairs, and the State Treasurer, who shall be members ex officio, and six members appointed by the Governor with the advice and consent of the Senate for terms of three years. Of the members first appointed pursuant to this 1991 amendatory act, one shall serve for a term of one year and one for a term of two years. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

The Governor shall appoint with the advice and consent of the Senate, three alternate members of the authority for terms of three years. At the time of appointment, the Governor shall designate a first alternate, second alternate and third alternate. In the event that a member of the authority, other than an ex officio member, is unable to attend all or any portion of a meeting of the authority, or is for any reason unable to perform the duties and responsibilities of a member of the authority for a temporary period, the chairperson may authorize an alternate member, in

order of designation, to exercise all of the powers, duties and responsibilities of such member, including, but not limited to, the right to vote on matters before the authority.

Each alternate member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. An alternate member shall be eligible for reappointment. Any vacancy in the alternate 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. Any reference to a member of the authority in this act shall be deemed to include alternate members unless the context indicates otherwise.

c. Each appointed member may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member 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 oaths shall be filed in the office of the Secretary of State.

d. The Commissioner of Commerce and Economic Development may, at his discretion, serve as the chairperson of the authority or may appoint one of the six public members of the authority as chairperson. Any such designation or appointment shall be made in writing and shall be delivered to the authority and to the Governor and shall continue in effect until revoked or amended by a writing delivered to the authority and the Governor. The members of the authority shall elect from their remaining number a vice chairperson and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and five members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least six members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Comptroller of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and

treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio member of the authority or his services therein.

g. Each ex officio member of the authority may designate an officer or employee of his department to represent him at meetings of the authority, and each such 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 authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after such copy of the minutes shall have been so delivered unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf

of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Comptroller of the Treasury.

k. The Comptroller of the Treasury and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or in any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

2. This act shall take effect immediately.

Approved January 16, 1992.

CHAPTER 393

AN ACT providing standards of ethical conduct for local school officials and supplementing chapter 12 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:12-21 Short title.

1. This act shall be known and may be cited as the "School Ethics Act."

C.18A:12-22 Findings, declarations.

2. The Legislature find and declares:

a. In our representative form of government it is essential that the conduct of members of local boards of education and local school

administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

b. To ensure and preserve public confidence, school board members and local school administrators should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards among them.

C.18A:12-23 Definitions.

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

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

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

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

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

"Commissioner" means the Commissioner of Education;

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

"Local school district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes and any jointure commission, county vocational school, county special services district, educational services commis-

sion, educational research and demonstration center, environmental education center, and educational information and resource center;

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

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

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

"School official" means a board member or an administrator; and

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

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

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

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

c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

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

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

contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties;

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

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

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

i. No elected member shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the member or a member of his immediate family, whether directly or indirectly, in return therefor; and

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

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

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

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

(2) whether the school official or a relative is a party to a contract with the school district with which the school official holds office or employment, and, if so, the nature of the contract; and

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

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

c. A school official who fails to file a statement or who files a statement containing information which the school official knows to be false shall be subject to reprimand, censure, suspension, or removal by the commissioner pursuant to the procedures established in section 9 of this act. Nothing in this subsection shall be construed to prevent or limit criminal prosecution.

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

C.18A:12-26 Financial disclosure statement.

6. a. Each school official shall annually file a financial disclosure statement with the School Ethics Commission. All financial disclosure statements filed pursuant to this act shall include the following information which shall specify, where applicable, the name and address of each source and the school official's position:

(1) Each source of income, earned or unearned, exceeding $2,000 received by the school official or a member of his immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security or interest derived from a financial institution is the source of income, the security or interest derived from a financial institution need not be reported unless the school official or member of his immediate family has an interest in the business organization or financial institution;

(2) Each source of fees and honorariums having an aggregate amount exceeding $250 from any single source for personal appearances, speeches or writings received by the school official or a member of his immediate family during the preceding calendar year;

(3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding $250 from any single source, excluding relatives, received by the school official or a member of his immediate family during the preceding calendar year; and

(4) The name and address of all business organizations in which the school official or a member of his immediate family had an interest during the preceding calendar year.

b. The commission shall prescribe a financial disclosure statement form for filing purposes. Initial financial disclosure statements shall be filed within 90 days following the effective date of this act. Thereafter, statements shall be filed on or before April 30th each year.

c. All financial disclosure statements filed shall be public records.

C.18A:12-27 School Ethics Commission.

7. a. There is hereby established in the State Department of Education a commission to be known as the "School Ethics Commission." The commission shall consist of nine members, not more than five of whom shall be from the same political party: two shall be board members; two shall be school administrators; and five shall be persons who are not school officials. All members shall be appointed by the Governor and shall serve at the pleasure of the Governor.

b. Members of the commission shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties under this act.

c. No member of the commission shall serve on or campaign for any office of a political organization during membership on the commission.

d. All members shall serve for a term of three years, except that for the members initially appointed, one board member, one administrator, and one public member shall be appointed for a term of three years; one board member and two public members shall be appointed for a term of two years; and one administrator and two public members shall be appointed for a term of one year.

e. Each member shall serve until the member's successor has been appointed and qualified. If a school official appointed to the commission ceases to be a school official, the person's appointment to the commission shall expire on the next succeeding July 1, or when the person's successor has been appointed and qualified, whichever occurs earlier. However, the membership of a school official who has been removed from office for official misconduct shall immediately cease upon such removal.

f. Any vacancy occurring in the membership of the commission shall be filled in the same manner as the original appointment for the unexpired term.

g. The members of the commission shall, by majority vote, select from among themselves one member to serve as chairperson for a term not to exceed one year.

C.18A:12-28 Staff appointments; duties; powers.

8. a. The commission may appoint professional employees and clerical staff and may incur expenses which are necessary to carry out the provisions of this act within the limits of funds appropriated or otherwise made available to it for that purpose. All appointments shall be made in accordance with the provisions of Title 11A of the New Jersey Statutes.

b. In order to carry out the provisions of this act, the commission shall have the power to issue advisory opinions, receive complaints filed pursuant to section 9 of this act, receive and retain disclosure statements filed pursuant to sections 5 and 6 of this act, conduct investigations, hold hearings, and compel the attendance of witnesses and the production of documents as it may deem necessary and relevant to such matter under investigation. The members of the commission and persons appointed by it for this purpose are empowered to administer oaths and examine witnesses under oath.

c. A person shall not be excused from testifying or producing evidence on the ground that the testimony or evidence might tend to incriminate the person, but an answer shall not be used or admitted in any proceeding against the person, except in a prosecution for perjury. The foregoing use immunity shall not be granted without prior written approval of the Attorney General. If use immunity is not granted, the person may be excused from testifying or producing evidence on the ground that the testimony or evidence might tend to incriminate the person.

d. The commission shall promptly report to the Attorney General any information which indicates the possible violation of any criminal law.

C.18A:12-29 Complaint procedures.

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

school district which employs or on whose board the school official named in the complaint serves, the commission member shall not participate in any subsequent proceedings on that complaint.

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

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

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

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

C.18A:12-30 Imposition of sanctions.

10. Notwithstanding the provisions of any other law or regulation to the contrary, the sanctions authorized by this act may be imposed on any school official pursuant to the procedures established in section 9 of this act. However, nothing in this act shall be construed to

limit the authority of any board of education or any appointing authority to process charges or complaints pursuant to the procedures contained in Titles 18A or 11A of the New Jersey Statutes.

C.18A:12-31 Advisory opinions.

11. A school official may request and obtain from the commission an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the provisions of this act. Advisory opinions of the commission shall not be made public, except when the commission, by a vote of at least six members, directs that the opinion be made public. Public advisory opinions shall not disclose the name of the school official.

C.18A:12-32 Jurisdiction preempted on pending matters.

12. The commission shall not process any complaint, issue a final ruling or issue any advisory opinion on a matter actually pending in any court of law or administrative agency of this State.

C.18A:12-33 Training program requirement.

13. Each newly elected or appointed board member shall complete during the first year of the member's first term a training program to be prepared and offered by the New Jersey School Boards Association regarding the skills and knowledge necessary to serve as a local school board member.

C.18A:12-34 Rules, regulations.

14. The State Board of Education may promulgate regulations pursuant to the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

15. This act shall take effect on the ninetieth day after enactment, except that the appointments authorized by this act and the administrative preparations for its implementation may be made prior to the effective date.

Approved January 16, 1992.

CHAPTER 394

AN ACT concerning the annual report filed by the Commissioner of Insurance with the Legislature on the New Jersey Insurance Underwriting Association and amending P.L.1968, c.129 and repealing section 17 of P.L.1968, c.129.

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

1. Section 15 of P.L.1968, c.129 (C.17:37A-15) is amended to read as follows:

C.17:37A-15 Association's annual statement; contents, form.

15. The association shall file with the Governor, the commissioner and the New Jersey Senate and General Assembly, annually on or before March 1, a statement which shall contain information with respect to its transactions, condition, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the commissioner, and shall be in such form as is approved by him. The commissioner may at any time require the association to furnish him with additional information with respect to its transactions, condition or any matter connected therewith, which he considers to be material and which will assist him in evaluating the scope, operation and experience of the association.

Repealer.

2. Section 17 of P.L.1968, c.129 (C.17:37A-17) is repealed.

3. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 395

AN ACT directing the Board of Commissioners of the Port Authority of New York and New Jersey to adopt rules and regulations providing for open public meetings.

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

C.32:1-6.1 Findings, declarations.

1. The Legislature finds and declares that the right of the public to be present at meetings of the Port Authority of New York and New Jersey, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of the authority, is vital to the enhancement and proper functioning of the democratic

process, and that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society; and declares it to be the public policy of this State to insure the right of its citizens to have adequate advance notice of and the right to attend all meetings of the authority at which any business affecting the public is discussed or acted upon in any way except only in those circumstances where otherwise the public interest would be clearly endangered or the personal privacy of guaranteed rights of individuals would be clearly in danger of unwarranted invasion.

C.32:1-6.2 Definitions.

2. As used in this act:

a. "Board" means the Board of Commissioners of the Port Authority of New York and New Jersey.

b. "Meeting" means any gathering, whether corporeal or by means of communication equipment, which is attended by, or open to, the board, held with the intent, on the part of the board members present, to discuss or act as a unit upon the specific public business of the authority. "Meeting" does not mean a gathering (1) attended by less than an effective majority of the board, or (2) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.

c. "Public business" means matters which relate in any way, directly or indirectly, to the performance of the functions of the Port Authority of New York and New Jersey or the conduct of its business.

C.32:1-6.3 Rules, regulations.

3. The board shall adopt and promulgate appropriate rules and regulations concerning the right of the public to be present at meetings of the authority. The board may incorporate in its rules and regulations conditions under which it may exclude the public from a meeting or a portion thereof.

Any rules or regulations adopted hereunder shall become a part of the minutes of the Port Authority of New York and New Jersey and shall be subject to the approval of the Governor of New Jersey and the Governor of New York.

4. This act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect with this act, but if the State of New York has already enacted such legislation, this act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 396

AN ACT concerning penalties and assessments for violations of shade tree commission ordinances and amending R.S.40:64-12.

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

1. R.S.40:64-12 is amended to read as follows:

Penalty; jurisdiction of courts; copy of ordinance as evidence.

40:64-12. Penalty; jurisdiction of courts; copy of ordinance as evidence

a. The commission may prescribe a fine for the violation of each of its ordinances in an amount not exceeding $1500.00 for each violation, and the courts which now or hereafter shall have jurisdiction over actions for the violation of ordinances of the municipality in which the commission has been or shall be appointed shall have jurisdiction in actions for the violation of such ordinances as the commission shall enact.

The ordinances shall be enforced by like proceedings and process and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the municipality in which the commission exists.

The officers authorized by law to serve and execute process in the aforementioned courts shall be the officers to serve and execute any process issued out of any court under this chapter.

A copy of any ordinance of the commission, certified to under the hand of its secretary, or chairman shall be received in any court of this State as full and legal proof of the existence of the ordinance, and that all requirements of law in relation to the ordaining, publishing and making of the same, so as to make it legal and binding, have been complied with, unless the contrary be shown.

b. In addition to the penalties authorized by subsection a. of this section, the commission may require a person who removes or otherwise destroys a tree in violation of a municipal ordinance to pay a replacement assessment to the municipality. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or Certified Tree Expert retained by the commission for that purpose. In lieu of an appraisal, the commission may adopt a formula and schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value

per square inch, not to exceed $27.00 per square inch. The square inch cross section shall be calculated from the diameter at breast height and, if there is a multiple stem tree, then each trunk shall be measured and an average shall be determined for the tree. For the purposes of this section, "diameter at breast height" shall mean the diameter of the tree taken at a point 4-1/2 feet above ground level. The commission shall modify the value of the tree based upon its species variety, location and its condition at the time of removal or destruction.

c. Any public utility or cable television company that clears, moves, cuts, or destroys any trees, shrubs, or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures, necessary for the supply of electric light, heat or power, communication, or cable television services upon any lands in which it has acquired an easement or right-of-way, shall not be subject to any penalty imposed by a commission pursuant to subsections a. or b. of this section. This subsection shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent actions.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 397

AN ACT concerning firearms and supplementing chapter 58 of Title 2C of the New Jersey Statutes.

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

C.2C:58-15 Minor's access to a loaded firearm; penalty, conditions.

1. a. A person who knows or reasonably should know that a minor is likely to gain access to a loaded firearm at a premises under the person's control commits a disorderly persons offense if a minor gains access to the firearm, unless the person:

(1) Stores the firearm in a securely locked box or container;

(2) Stores the firearm in a location which a reasonable person would believe to be secure; or

(3) Secures the firearm with a trigger lock.

b. This section shall not apply:

(1) To activities authorized by section 14 of P.L.1979, c.179, (C.2C:58-6.1), concerning the lawful use of a firearm by a minor; or

(2) Under circumstances where a minor obtained a firearm as a result of an unlawful entry by any person.

c. As used in this act, "minor" means a person under the age of 16.

C.2C:58-16 Retailer's written warnings; wholesaler's warning; violation, penalty.

2. a. Upon the retail sale or transfer of any firearm, the retail dealer or his employee shall deliver to the purchaser or transferee the following written warning, printed in block letters not less than one-fourth of an inch in height:

"IT IS A CRIMINAL OFFENSE, PUNISHABLE BY A FINE AND IMPRISONMENT, FOR AN ADULT TO LEAVE A LOADED FIREARM WITHIN EASY ACCESS OF A MINOR."

b. Every wholesale and retail dealer of firearms shall conspicuously post at each purchase counter the following warning, printed in block letters not less than one inch in height:

"IT IS A CRIMINAL OFFENSE TO LEAVE A LOADED FIREARM WITHIN EASY ACCESS OF A MINOR."

c. Violation of this section by any retail or wholesale dealer of firearms is a petty disorderly persons offense.

3. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 398

AN ACT concerning life insurance for volunteer firefighters in fire districts and amending N.J.S.40A:14-37.

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

1. N.J.S.40A:14-37 is amended to read as follows:

Volunteer firefighters' life insurance.

40A:14-37. a. In any fire district maintaining a volunteer fire department, or wherein there shall exist one or more incorporated

volunteer fire companies affording fire protection to the fire district, the membership whereof are serving under the jurisdiction of and with the consent of the fire district and have formed, or may hereafter form themselves into a group or groups, for the purpose of obtaining the advantages of the group plan of life insurance, in any of the plans now in vogue, or any plan which may hereafter be inaugurated, it shall be lawful for the board of commissioners of such fire district, by resolution, to appropriate moneys for the purpose of defraying the cost of such insurance and to pay the premiums therefor.

No board of commissioners of any fire district shall pay any premiums on account of any policy of group life insurance as provided herein where the amount payable upon the death of each assured under the terms of the policy exceeds the sum of $10,000.00.

b. The board of commissioners of a fire district may, by resolution, contract for and appropriate money to defray the cost of any individual life insurance policy which provides cash value, non-forfeiture benefits and loan provisions for volunteer firefighters in its jurisdiction. Any such policy may provide for additional benefits by means of a rider.

The amount payable upon the death of each insured on any individual life insurance policy contracted for pursuant to the provisions of this section shall not exceed the sum of $16,500.

The Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Insurance, shall promulgate rules and regulations in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to regulate the provision of insurance under this subsection.

2. This act shall take effect on the first day of the fourth month after enactment.

Approved January 17, 1992.

CHAPTER 399

AN ACT increasing the membership of the fire safety commission and amending P.L.1983, c.382.

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

1. Section 5 of P.L.1983, c.382 (C.52:27D-25e) is amended to read as follows:

C.52:27D-25e Fire safety commission.

5. a. To assist and advise the commissioner in the administration of this act, there is created in the Department of Community Affairs a fire safety commission consisting of 21 members. The commission shall consist of: two members of the Senate, appointed by the President of the Senate, who shall not be both of the same political party; two members of the General Assembly, appointed by the Speaker of the General Assembly, who shall not be both of the same political party; seven citizens of the State, appointed jointly by the President of the Senate and the Speaker of the General Assembly, no more than four of whom shall be of the same political party, including a representative of a volunteer fire organization, a representative of a construction labor organization, a representative of the fire insurance industry, a representative of the construction industry, a representative of the International Association of Fire Chiefs, a municipal construction official, and a representative of the New Jersey State Fire Prevention and Protection Association; 10 citizens of the State appointed by the Governor, no more than five of whom shall be of the same political party, and who shall include a representative of the New Jersey State Firemen's Mutual Benevolent Association, a representative of the New Jersey League of Municipalities, two representatives of the volunteer fire service, one of whom shall be a representative of the New Jersey State Volunteer Firemen's Association, a representative of the New Jersey State Fire Chiefs' Association, a representative of the New Jersey Paid Fire Chiefs' Association, a representative of the Fire Fighters' Association of New Jersey, a representative of the New Jersey State Association of Fire Districts, a municipal fire protection subcode official, and a chief administrator of the fire department of a municipality with a population of 100,000 or more, according to the most recent federal decennial census. The members of the Senate and General Assembly appointed to the commission shall serve for terms which shall be for the legislative session for which they were elected. Of the seven members first appointed jointly by the President of the Senate and the Speaker of the General Assembly,

three shall be appointed for terms of five years, three shall be appointed for terms of four years, and one shall be appointed for a term of three years. Of the eight members first appointed by the Governor, three shall be appointed for terms of five years, three shall be appointed for a term of four years, and two shall be appointed for terms of three years. The first representative of the New Jersey State Association of Fire Districts appointed by the Governor shall be for a term of three years. Thereafter, members of the fire safety commission, except as provided above for members of the Legislature, shall be appointed for terms of five years. Vacancies on the commission shall be filled, in the same manner as the original appointment but for the unexpired term. Members may be removed by the appointing authority for cause.

b. Members of the fire safety commission shall serve without compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties, within the limits of any funds appropriated or otherwise made available for that purpose.

c. To advise and assist the fire safety commission in the performance of its responsibilities under this act, there are created four advisory councils, one in each of the following subject areas: the "Uniform Fire Safety Act"; training and education which shall be comprised of at least 60% of the representatives of the volunteer fire service; statistics and information; and master planning and research. Additional advisory councils shall be created by the fire safety commission as it deems appropriate. Each advisory council shall consist of one member of the fire safety commission, who shall be chairman, and as many citizens who are knowledgeable and experienced in matters related to the particular subject as the fire safety commission shall appoint. Members of the advisory councils shall serve without compensation and at the pleasure of the fire safety commission.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 400

AN ACT concerning the Delaware River Port Authority and directing the authority to provide for its meetings to be open to the public and the news media.

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

C.32:3-4.5 Findings, declarations.

1. a. The Legislature hereby finds that the public's awareness of and participation in governmental actions is essential to maintaining a free society; that the more open a government is with its citizens, the greater the understanding and participation of the public in government; that the public's fundamental right to know the process of governmental decision-making and to review the reasons for those decisions is thwarted when the public's access to governmental meetings is blocked; that government and the agencies created thereby must insure that their actions remain fully accountable to the public.

b. The Legislature declares that for these public policy reasons the Delaware River Port Authority shall develop rules and regulations concerning the right of the public and members of the news media to be present at meetings of the authority as herein provided.

C.32:3-4.6 Definitions.

2. As used in this act:

"Board" means the Board of Commissioners of the Delaware River Port Authority;

"Meeting" means any gathering of a majority of the board at which the effect of the discussions held or the actions taken by the commissioners present is to discuss or act as a unit upon the specific public business of the authority. "Meeting" does not mean a gathering (1) attended by less than an effective majority of the commissioners, or (2) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering;

"News media" means persons representing major wire services, television news services, radio news services and newspapers, whether located in this State or in any other state.

"Port Authority" means the Delaware River Port Authority;

"Public business" means matters which relate in any way, directly or indirectly, to the performance of the functions of the Delaware River Port Authority or the conduct of its business.

C.32:3-4.7 Public meetings; rules, regulations.

3. a. Notwithstanding any inconsistent provisions of any general or special law, all meetings of the Port Authority are declared to be public meetings and shall be open to the public and members of the news media, individually and collectively, for the

purpose of observing the full details of all phases of the deliberation, policy-making and decision-making of the board.

b. The board shall adopt within six months of the effective date of this act, appropriate rules and regulations concerning proper notice to the public and the news media of its meetings and the right of the public and the news media to be present at its meetings. The rules and regulations adopted pursuant to this section shall provide for the same notice and right of the public and news media to be present as well as any other rights and duties provided in the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and the "Sunshine Act," number 84 of the laws of Pennsylvania of 1986. To the extent these laws conflict, the Port Authority shall incorporate into the rules and regulations the provisions of that law which provides for the greatest rights to the public and the news media.

C.32:3-4.8 Minutes of meetings; information officer.

4. a. It shall be the duty of the board to insure that true and accurate minutes are kept of board meetings and that such minutes are promptly made available to the members of the public and the news media.

b. The commissioners of the Port Authority shall appoint a public meeting information officer who shall be responsible for responding to requests from the public and the news media for information concerning the scheduling, attendance and minutes of board meetings.

C.32:3-4.9 Rules, regulations, approval.

5. Any rules or regulations adopted pursuant to section 3 of this act shall become a part of the minutes of the Port Authority and shall be subject to the approval of the Governor of New Jersey and the Governor of Pennsylvania.

C.32:3-4.10 Appeal for denial of rights.

6. Any person denied any right granted by sections 3 or 4 of this act may appeal the denial to the Superior Court of New Jersey, the Court of Common Pleas of the State of Pennsylvania, or any court of competent jurisdiction within one year of the date that the cause of action arises.

C.32:3-4.11 Removal from office.

7. Any official or employee of the Port Authority who willfully engages in a continuous and repetitive pattern of violating the provisions of this act shall be subject to removal from his office or employment.

8. This act shall take effect upon the enactment into law by the State of Pennsylvania of legislation having an identical effect with this act, but if the State of Pennsylvania has already enacted such legislation, this act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 401

AN ACT establishing the New Jersey Office on Minority Health.

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

C.26:2-160 Findings, declarations.

1. The Legislature finds and declares that there are dramatic differences in death, disease and injury rates between White and minority populations in the State. For example, the non-White infant mortality rate in 1987 was 18.7 per 1,000 live births, whereas the rate for White infants was 7.1; esophageal cancer death rates among Black males are three times greater than among White males; of the cumulative total of AIDS cases reported in 1988 in the State, 34% were White, 52% Black and 13% Hispanic; Black and Hispanic women represent 77% of all female AIDS cases in the State; and chemical poisonings among the employed Black population are almost three times greater than that of the employed White population, as measured by the frequency of hospitalization.

The Legislature further finds and declares that presently there is no coordinated State effort to address the wide disparity in death, disease and injury rates and, therefore, there is a need to establish a New Jersey Office on Minority Health to identify and develop innovative projects which will close the gap between the health status of White and minority populations in this State, and to coordinate current State programs which seek to address minority health concerns.

C.26:2-161 New Jersey Office on Minority Health.

2. There is established the New Jersey Office on Minority Health in the Department of Health.

C.26:2-162 Duties of the office.

3. The office shall:

a. Provide grants to community-based organizations to conduct special research, demonstration and evaluation projects for targeted at-risk minority populations;

b. Develop and implement model public and private partnerships in minority communities for health awareness campaigns and to improve the access, acceptability and use of public health services;

c. Serve as an information and resource center for minority specific health information and data;

d. Review, recommend and develop culturally appropriate health education materials;

e. Provide assistance to local school districts to develop programs in elementary and secondary schools which stress good nutrition and healthy lifestyles;

f. Function as an advocate for the adoption and implementation of effective measures to improve minority health;

g. Improve existing data systems to ensure that the health information that is collected includes specific race and ethnicity identifiers;

h. Review the programs of the Departments of Health, Human Services, Community Affairs and Education and any other department of State government, as appropriate, that concern minority health and make recommendations to the departments that will enable them to better coordinate and improve the effectiveness of their efforts; and

i. Within 18 months of the effective date of this act, develop a Statewide plan for increasing the number of minority health care professionals which includes recommendations for the financing mechanisms and recruitment strategies necessary to carry out the plan.

C.26:2-163 Powers of the office.

4. The office is authorized to:

a. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the operation of the office and other matters that may be necessary to carry out the purposes of this act;

b. Maintain offices at such places within the State as it may designate;

c. Employ a director and other personnel as may be necessary. The director shall be appointed by the Commissioner of Health and shall serve at the pleasure of the commissioner during the commissioner's term of office and until the appointment and qualification of the director's successor. The director shall devote his entire time to the duties of the position and shall receive a salary as provided by law;

d. Apply for and accept any grant of money from the federal government, private foundations or other sources, which may be available for programs related to minority health;

e. Serve as the designated State agency for receipt of federal funds specifically designated for minority health programs; and

f. Enter into contracts with individuals, organizations, and institutions necessary for the performance of its duties under this act.

C.26:2-164 Advisory commission.

5. There is established a New Jersey Office on Minority Health Advisory Commission.

The commission shall consist of nine members, including the Commissioner of Health or his designee, who shall serve ex officio, and eight public members who are residents of the State and who shall be appointed as follows: one member who is a health care professional shall be appointed by the President of the Senate; one member who is a health care professional shall be appointed by the Speaker of the General Assembly; and six members, at least two of whom are health care professionals, at least one of whom represents health care facilities and at least one of whom represents the health insurance industry, shall be appointed by the Governor with the advice and consent of the Senate.

The term of office of each public member shall be three years, but of the members first appointed, two shall be appointed for a term of one year, three shall be appointed for a term of two years and three shall be appointed for a term of three years. A member shall hold office for the term of his appointment and until his successor has been appointed and qualified. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member of the commission is eligible for reappointment.

The public members of the commission shall not receive any compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the commission, within the limits of funds available to the commission.

The members of the commission shall annually elect a chairman and a vice-chairman from among the public members and may select a secretary, who need not be a member of the commission.

The New Jersey Office on Minority Health shall provide such staff and assistance as the commission requires to carry out its work.

C.26:2-165 Duties of advisory commission.

6. The advisory commission shall:

New Jersey State Library

a. Review and make recommendations to the New Jersey Office on Minority Health on any rules, regulations and policies proposed by the office;

b. Advise the office on the awarding of grants and development of programs and services required pursuant to this act;

c. Advise the office on the needs, priorities, programs and policies relating to minority health in this State; and

d. Provide any other assistance to the office, as may be requested by the director.

The commission 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.

C.26:2-166 Annual report.

7. The office shall report annually, by September 1 of each year, to the Legislature and the Governor on the activities of the office, including the projects and services developed and funded by the office and the health care problems that the grant funds are intended to ameliorate. The office may include in the report any recommendations for administrative or legislative action that it deems appropriate.

C.26:2-167 Assistance of public agencies.

8. The office 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. All departments, agencies and divisions are authorized and directed, to the extent not inconsistent with law, to cooperate with the New Jersey Office on Minority Health.

9. This act shall take effect on the 60th day after enactment.

Approved January 17, 1992.

CHAPTER 402

AN ACT concerning the transportation of alcoholic beverages intended for personal use, and amending R.S.33:1-2.

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.

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 pursuant 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 $5.00 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.

d. Each person who files a brand registration schedule, and amendments thereto shall pay a filing fee to cover the reasonable costs incurred by the director in connection with the filing, but not in excess of $10.00 per filing. 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. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 403

AN ACT concerning certain tax sale certificates and supplementing chapter 5 of Title 54 of the Revised Statutes.

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

C.54:5-114.4a Foreclosure on certain tax sale certificates.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, a purchaser of a tax sale certificate and subsequent municipal liens purchased as described in R.S.54:5-

113, or that purchaser's heirs or assigns, may foreclose on a tax sale certificate which has been held at least 40 years by the purchaser, his heirs or assigns, provided that the purchaser, or his heirs or assigns, establish that the property taxes have been paid by the purchaser, his heirs or assigns in each year since the purchase of the tax sale certificate.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 404

AN ACT concerning the solemnization of marriages and amending R.S.37:1-13.

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

1. R.S.37:1-13 is amended to read as follows:

Authorization to solemnize marriages.

37:1-13. Each judge of a federal district court, United States magistrate, judge of a municipal court, judge of the Superior Court, judge of a tax court, surrogate of any county and any mayor or the deputy mayor when authorized by the mayor, or chairman of any township committee or village president of this State, and every minister of every religion, are hereby authorized to solemnize marriage between such persons as may lawfully enter into the matrimonial relation; and every religious society, institution or organization in this State may join together in marriage such persons according to the rules and customs of the society, institution or organization.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 405

AN ACT concerning eligibility for participation in the Animal Population Control Program and amending P.L.1983, c.172.

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

1. Section 3 of P.L.1983, c.172 (C.4:19A-2) is amended to read as follows:

C.4:19A-2 Eligibility.

3. In order to be eligible to participate in the program, an owner of a dog or cat shall be eligible for, and participate in, at least one of the following:

a. The Food Stamp Program authorized by Title XIII of the Food and Agriculture Act of 1977, Pub.L.95-113 (7 U.S.C.§2011 et seq.);

b. The Supplemental Security Income Program established pursuant to Title XVI of the Social Security Act, 42 U.S.C.§1381 et seq.;

c. The program for aid to families with dependent children, pursuant to P.L.1959, c.86 (C.44:10-1 et seq.);

d. The program for general public assistance, pursuant to the provisions of the "General Public Assistance Law," P.L.1947, c.156 (C.44:8-107 et seq.);

e. The program of medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

f. The program of "Pharmaceutical Assistance to the Aged and Disabled," established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.);

g. The rental assistance program authorized pursuant to section 8 of the United States Housing Act of 1937 as added by the Housing and Community Development Act of 1974, Pub.L.93-383 (42 U.S.C. § 1437(f));

h. The "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.); or

i. The "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.).

A resident of New Jersey who owns a dog or cat shall also be eligible to participate in the program if the owner: (1) submits to a veterinarian participating in the program proof, in the form of a certificate of adoption, that the dog or cat was adopted from a New Jersey licensed animal shelter, a New Jersey municipal, county, or regional pound, or a New Jersey holding and impoundment facility that contracts with New Jersey municipalities, or

proof that the dog or cat was adopted through a non-profit corporation operating an animal adoption referral service in New Jersey and whose holding facility is licensed in accordance with State and municipal law; or proof that the dog or cat was adopted through a non-profit corporation operating an animal adoption referral service in New Jersey that does not operate a holding facility; and, in the case of a dog, proof that the dog is duly licensed pursuant to State and municipal law; and (2) pays a $20 fee, to be deposited in the fund. The Department of Health 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 this amendatory act.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 406

AN ACT concerning restricted parking zones and amending P.L.1977, c.309.

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

1. Section 1 of P.L.1977, c.309 (C.39:4-197.6) is amended to read as follows:

C.39:4-197.6 Restricted parking zone, residence of handicapped person.

1. Any municipality may, by ordinance, establish a restricted parking zone in front of a residence occupied by a handicapped person if a windshield placard or wheelchair symbol license plates have been issued for a vehicle owned by the handicapped person, or by another occupant of the residence who is a member of the immediate family of the handicapped person, by the Division of Motor Vehicles pursuant to the provisions of P.L.1949, c.280 (C.39:4-204 et seq.), provided such parking is not otherwise prohibited and the permitting thereof would not interfere with the normal flow of traffic.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 407

AN ACT concerning the duration of certain 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 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. Duration of certain contracts. 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, 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 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 Division of Energy Planning and Conservation, of the Board of Public Utilities, 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 accor-

dance 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 facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

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

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For the purposes of this subsection, "wastewater treatment services" means any service 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 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)).

All multi-year 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, contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

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

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 408

AN ACT concerning certain real estate appraisers and amending P.L.1991, c.68.

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

1. Section 2 of P.L.1991, c.68 (C.45:14F-2) is amended to read as follows:

C.45:14F-2 Definitions.

2. As used in this act:

"Another state or other state" means any other state, the District of Columbia, the Commonwealth of Puerto Rico and any other possession or territory of the United States.

"Appraisal" or "real estate appraisal" means an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" means an estimate of the value of real estate or real property and an "analysis" means a study of real estate or real property other than a valuation.

"Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.

"Appraisal Foundation" means the Appraisal Foundation incorporated in the State of Illinois as a nonprofit corporation on November 30, 1987, as denominated in Title XI of Pub.L.101-73 (12 U.S.C. §3331 et seq.).

"Appraisal report" means any written communication of an appraisal.

"Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, as created by section 1102 of Title XI of Pub.L.101-73 (12 U.S.C. §3310).

"Approved education provider" means a provider of real estate appraisal education courses who is approved by the board.

"Board" means the State Real Estate Appraiser Board established pursuant to section 3 of this act.

"Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given or signed by a State certified general or residential real estate appraiser.

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

"Federally related transaction" shall have the meaning ascribed to that term in section 1121 of Title XI of Pub.L.101-73 (12 U.S.C. §3350).

"Licensed appraisal" or "licensed appraisal report" means an appraisal or appraisal report given or signed by a State licensed real estate appraiser.

"Real estate" means an identified parcel or tract of land, including improvements thereon, if any.

"Real property" means one or more defined interests, benefits or rights inherent in real estate.

"State certified real estate appraiser" or "State certified general or residential real estate appraiser" means an individual who holds a current, valid certificate for real estate appraisal pursuant to the provisions of this act and is recognized as being more knowledgeable of and experienced in real estate appraisals than a State licensed real estate appraiser.

"State licensed real estate appraiser" means an individual who holds a current, valid license for real estate appraisal pursuant to the provisions of this act.

2. Section 5 of P.L.1991, c.68 (C.45:14F-5) is amended to read as follows:

C.45:14F-5 Certifications required as State certified real estate appraiser.

5. No person shall assume or use the title or designation "State certified general real estate appraiser" or the abbreviation "SCGREA" or "State certified residential real estate appraiser" or the abbreviation "SCRREA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that such person is a State certified real estate appraiser, unless such person holds a current, valid certificate as a State certified general or residential real estate appraiser, as applicable, pursuant to the provisions of this act.

3. Section 6 of P.L.1991, c.68 (C.45:14F-6) is amended to read as follows:

C.45:14F-6 License required for State licensed real estate appraiser.

6. No person shall assume or use the title or designation "State licensed real estate appraiser" or the abbreviation "SLREA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that such person is a State licensed real estate

appraiser, unless such person holds a current, valid license as a State licensed real estate appraiser pursuant to the provisions of this act.

4. Section 8 of P.L.1991, c.68 (C.45:14F-8) is amended to read as follows:

C.45:14F-8 Powers, duties of the board.

8. 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. Examine and pass on the qualifications of all applicants for licensure or certification under this act;

c. Issue and renew licenses and certificates of real estate appraisers;

d. Prescribe examinations for certification under this act, which examinations shall meet the standards for certification examinations for real estate appraisers established by the Appraisal Foundation, and prescribe examinations for licensure under this act, which examinations shall meet the standards for licensing examinations for real estate appraisers acceptable to the Appraisal Subcommittee;

e. Suspend, revoke or refuse to issue or renew a license or certificate and exercise investigative powers pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

f. Establish fees for applications for licensure and certification, examinations, initial licensure and certification, renewals, late renewals, temporary licenses, temporary certifications and for duplication of lost licenses or certificates, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2);

g. Establish a code of professional ethics for persons licensed or certified under this act which meets the standards established by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation;

h. Establish standards for the certification of real estate appraisers which meet the standards established by the Appraisal Foundation, and establish standards for the licensing of real estate appraisers which meet standards acceptable to the Appraisal Subcommittee;

i. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In any hearing or investigative inquiry, 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;

j. Take such action as is necessary before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;

k. Maintain a registry of the names and business addresses of licensees and the names and business addresses of certified individuals and shall forward such materials to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

l. Approve providers of real estate appraiser education courses and establish and revise experience and education requirements for the licensure and certification of real estate appraisers in this State;

m. Approve providers of real estate appraiser continuing education courses and establish and revise continuing education requirements for the renewal of licenses and certificates;

n. 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, except that the initial rules and regulations shall be promulgated by the director; and

o. Perform any other functions and duties which may be necessary to carry out the provisions of this act.

5. Section 10 of P.L.1991, c.68 (C.45:14F-10) is amended to read as follows:

C.45:14F-10 Eligibility for licensure.

10. To be eligible for licensure as a real estate appraiser, an applicant shall fulfill the following requirements:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Have a high school diploma or its equivalent;

d. Have real estate appraisal experience which experience shall meet standards for experience acceptable to the Appraisal Subcommittee;

e. Have successfully completed a course of study in real estate appraising prescribed by the board and conducted by an approved education provider, which course of study shall meet standards acceptable to the Appraisal Subcommittee; and

f. Successfully complete a real estate appraiser licensing examination administered by the board.

6. Section 11 of P.L.1991, c.68 (C.45:14F-11) is amended to read as follows.

C.45:14F-11 Eligibility for certification.

11. To be eligible for certification as a general or residential real estate appraiser, an applicant shall fulfill the following requirements:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Have a high school diploma or its equivalent;

d. Have real estate appraisal experience which experience shall meet the standards for experience prescribed by the Appraisal Foundation for the type of certificate sought;

e. Have successfully completed a course of study in real estate appraising prescribed by the board and conducted by an approved education provider, which course of study shall meet the standards for the course of study issued by the Appraisal Foundation for the type of certificate sought; and

f. Successfully complete a real estate appraiser certification examination administered by the board.

7. Section 13 of P.L.1991, c.68 (C.45:14F-13) is amended to read as follows:

C.45:14F-13 Temporary certification.

13. Upon payment to the board of the prescribed fee and the submission of a written application on forms prescribed by the board, the board shall issue the appropriate type of temporary real estate appraiser certification to any person who meets the requirements of subsections a., b., c., d. and f. of section 11 of this act and who makes application to the board within 180 days of the effective date of this act.

If during the temporary certification term, the person holding the temporary certification completes the requirements of subsection e. of section 11 of this act, the board may issue a certification as a State certified general or residential real estate appraiser. A temporary certification shall not be effective for more than 420 days and shall not be renewed.

8. Section 18 of P.L.1991, c.68 (C.45:14F-18) is amended to read as follows:

C.45:14F-18 Renewals of licenses, certificates.

18. a. No license shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements prescribed pursuant to this act. The board shall not require less than the

number of hours acceptable to the Appraisal Subcommittee for the continuing education of licensed real estate appraisers.

b. No certificate shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements prescribed pursuant to this act for the type of certificate for which renewal is sought. The board shall not require less than the number of hours of continuing education prescribed by the Appraisal Foundation as a national standard for the continuing education of certified real estate appraisers.

c. Continuing education may include classroom instruction in courses, seminars or other activities as approved by the board.

9. Section 32 of P.L.1991, c.68 is amended to read as follows:

32. This act shall take effect immediately except that sections 5, 6 and 21 of this act shall take effect on July 1, 1991, or such later date as authorized by the Appraisal Subcommittee pursuant to section 1119 of Title XI of Pub.L.101-73 (12 U.S.C. §3348).

10. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 409

AN ACT concerning the distribution of certain motor vehicles and amending P.L.1985, c.361.

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

1. Section 1 of P.L.1985, c.361 (C.56:10-26) is amended to read as follows:

C.56:10-26 Definitions.

1. As used in this act:

a. "Consumer" means the purchaser, other than for resale, of a motor vehicle;

b. "Franchise" means a written arrangement for a definite or indefinite period in which a motor vehicle franchisor grants a right or license to use a trade name, trademark, service mark or

related characteristics and in which there is a community of interest in the marketing of new motor vehicles at retail, by lease, agreement or otherwise;

c. "Motor vehicle" means and includes all vehicles propelled otherwise than by muscular power, and motorcycles, trailers and tractors, excepting: (1) those vehicles as run only upon rails or tracks, motorized bicycles, and buses, including school buses; and (2) those motor vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway;

d. "Motor vehicle franchisee" means a person to whom a franchise is granted by a motor vehicle franchisor and who or which holds a current valid motor vehicle dealer's license issued pursuant to R.S.39:10-19 and has an established place of business;

e. "Motor vehicle franchisor" means a person engaged in the business of manufacturing, assembling or distributing new motor vehicles, or importing into the United States new motor vehicles manufactured or assembled in a foreign country, who will under normal business conditions during the year, manufacture, assemble, distribute or import at least 10 new motor vehicles;

f. "Place of business" means a fixed geographical location at which the motor vehicle franchisor's motor vehicles are offered for sale and sold, but shall not include an office, a warehouse, a place of storage, a residence or a vehicle;

g. "New motor vehicle" means a newly manufactured motor vehicle;

h. "Person" means a natural person, corporation, partnership, trust, or other entity and, in the case of an entity, it shall include any other entity which has a majority interest in that entity or effectively controls that other entity as well as the individual officers, directors, and other persons in active control of the activities of each such entity.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 410

AN ACT concerning property tax billing and amending R.S.54:4-64, R.S.54:4-65, R.S.54:4-66 and P.L.1991, c.89.

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

1. R.S.54:4-64 is amended to read as follows:

Delivery of tax bills.

54:4-64. a. As soon as the tax duplicate is delivered to the collector of the taxing district, as provided in R.S.54:4-55, he shall at once begin the work of preparing, completing, mailing or otherwise delivering tax bills to the individuals assessed, and shall complete that work on or before June 14. He shall also, at least two months before the first installment of taxes for the year falls due, or in municipalities operating on the State fiscal year, on or before October 1 of the pre-tax year, prepare and mail, or otherwise deliver to the individuals assessed, a tax bill for such following first and second installments, computed as provided in R.S.54:4-66. When any individual assessed has authorized the collector to mail or otherwise deliver his tax bill to a mortgagee or any other agent, the collector shall, at the same time, mail or otherwise deliver a duplicate tax bill to the individual assessed and shall print across the face of such duplicate tax bill the following inscription: "This is not a bill -- for advice only." The validity of any tax or assessment, or the time at which it shall be payable, shall not be affected by the failure of a taxpayer to receive a tax bill, but every taxpayer is put on notice to ascertain from the proper official of the taxing district the amount which may be due for taxes or assessments against him or his property.

b. As provided in subsection a. of this section, a mortgagor as the individual assessed for property taxes or other municipal charges with respect to the property securing a mortgage loan, may authorize the tax collector to mail or otherwise deliver his tax bill to a mortgagee or servicing organization. This tax authorization form shall be assignable in the event the mortgagee or servicing organization sells, assigns or transfers the servicing of the mortgage loan to another mortgagee or servicing organization.

c. The tax collector of the taxing district shall, upon receipt of a written request from a mortgagee or servicing organization on a form approved by the commissioner, mail or otherwise deliver a mortgagor's tax bill to a property tax processing organization. The commissioner shall provide by regulation for a procedure by which the tax collector of a taxing district may request the Director of the Division of Local Government Services in the

Department of Community Affairs to review the appropriateness of the request to mail or otherwise deliver a mortgagor's tax bill to a property tax processing organization.

d. If a mortgagee, servicing organization, or property tax processing organization requests a duplicate copy of a tax bill, the tax collector of a taxing district shall issue a duplicate copy and may charge a maximum of $5 for the first duplicate copy and a maximum of $25 for each subsequent duplicate copy of the same tax bill in the same tax year, the actual charge being set by municipal ordinance. The commissioner shall promulgate regulations to effectuate the provisions of this subsection d. which regulations shall include a procedure by which a mortgagee, servicing organization, or property tax processing organization may appeal and be reimbursed for the amount it has paid for a duplicate copy of a tax bill, or any part thereof.

e. As used in subsections b., c., and d. of this section, "mortgagee," "mortgagor," "mortgage loan," "servicing organization" and "property tax processing organization" shall have the same meaning as the terms have pursuant to section 1 of P.L.1990, c.69 (C.17:16F-15).

2. Section 3 of P.L.1991, c.89 (C.54:4-64a) is amended to read as follows:

C.54:4-64a Complete tax bill, computation of first and second installments.

3. The complete tax bill delivered to each property taxpayer, mortgagee or any other agent by the tax collector pursuant to R.S.54:4-64 for the first half payment computed using the method set forth in R.S.54:4-66 shall be divided equally to obtain the first two post tax year quarterly payment installments.

3. R.S.54:4-65 is amended to read as follows:

Form and content of property tax bills.

54:4-65. In addition to the requirements set forth hereunder, the Director of the Division of Local Government Services in the Department of Community Affairs shall approve the form and content of property tax bills.

Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per $100.00 of assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures

and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill.

The tax bill shall also contain a statement reporting amounts of State aid and assistance received by the municipality, school districts, special districts and county governments used to offset local tax levies. The director shall provide each tax collector with a certification of the amounts of said State aid and assistance for inclusion in the tax bill.

4. R.S.54:4-66 is amended to read as follows:

When taxes payable, delinquent.

54:4-66. Taxes shall be payable and shall be delinquent as hereinafter stated:

a. Taxes shall be payable the first installment as hereinafter provided on February first, the second installment on May first, the third installment on August first and the fourth installment on November first, after which dates if unpaid, they shall become delinquent;

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the penalties hereinafter prescribed;

c. In municipalities with a January 1 through December 31 fiscal year, the dates hereinbefore provided for payment of the first and second installments of taxes being before the true amount of the tax will have been determined, the amount to be payable as each of the first two installments shall be one-quarter of the total tax finally levied against the same property or taxpayer for the preceding year or, if directed to do so for the tax year by resolution of the municipal governing body, one-half of the tax levied for the second half of the preceding tax year, as appropriate; and the amount to be payable for the third and fourth installments shall be the full tax as levied for the current year, less the amount charged as the first and second installments; the amount thus found to be payable as the last two installments shall be divided equally for and as each installment. An appropriate adjustment by way of discount shall be made, if it shall appear that the total of the first and second installments exceeded one-half of the total tax as levied for the year;

d. In municipalities that operate on the State fiscal year, there shall be two annual tax bills delivered and the amounts payable shall be as follows:

(1) In the tax year in which the fiscal year is changed, a tax bill shall be delivered on or before June 14 of the tax year for the third and fourth installments. The amount to be payable for the two installments shall be the full tax levied against the same property or taxpayer for municipal purposes in the preceding tax year, less the amount charged as the first and second installments for municipal purposes for the current calendar year; plus the full tax as levied for the current tax year for county, school and other purposes, excepting municipal purposes, less the amount charged as the first and second installments for county, school and other purposes, excepting municipal purposes; the amount found to be payable shall be divided equally for each installment.

(2) Thereafter, in each tax year a tax bill shall be delivered on or before October 1 of the pre-tax year for the first and second installments of the tax year and on or before June 14 for the third and fourth installments. The amount to be payable for the first two installments shall be the full tax levied for municipal purposes against the property or taxpayer for the current municipal fiscal year less the amount charged for municipal purposes as the third and fourth installments in the preceding tax year, plus one half of the total tax levied against the property or taxpayer for county, school and other purposes, excepting municipal purposes, in the preceding tax year. If, pursuant to an appropriate certification of taxes payable, the total amount to be payable for the first two installments is less than the total obligation for county, school or other purposes for the first and second installments of the tax year, the municipality shall proportionately adjust tax billings in order to meet the obligation. The amount so derived shall be divided equally for each installment. The amount payable for the third and fourth installments shall be the full tax levied against the same property or taxpayer for municipal purposes in the preceding municipal fiscal year, less the amount charged as the first and second installments for municipal purposes for the current calendar year; plus the full tax as levied for the current tax year for county, school and other purposes, excepting municipal purposes, less the amount charged as the first and second installments for county, school and other purposes, excepting municipal purposes. The amount so derived shall be divided equally for each installment. An appropriate adjustment by way

of discount shall be made if it appears that the total of that portion of the first two installments which is taxes for county, school or other purposes, excepting municipal purposes, exceeded one-half of the total tax for those purposes as levied for the tax year;

e. Taxes may be received and credited as payments at any time, even prior to the dates hereinbefore fixed for payment.

5. This act shall take effect immediately, and shall apply to property taxes assessed and levied for each tax year beginning on or after January 1, 1991.

Approved January 17, 1992.

CHAPTER 411

AN ACT concerning the use of interstate common pools in connection with certain simulcast horse races and amending and supplementing P.L.1985, c.269.

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

1. Section 2 of P.L.1985, c.269 (C.5:5-111) is amended to read as follows:

C.5:5-111 Definitions.

2. As used in this act:

a. "Horsemen's organization" means the Horsemen's Benevolent and Protective Association, the Standardbred Breeders' and Owners' Association, or another organization or group representing a majority of horsemen engaged in competing for purses during a regularly scheduled horse race meeting, as the case may be.

b. "Intertrack wagering" means parimutuel wagering on simulcast horse races held at an in-State sending track by patrons at a receiving track and the electronic transmission of the wagers to the in-State sending track.

c. "Intertrack wagering license" means a license issued by the New Jersey Racing Commission permitting intertrack wagering.

d. "Receiving track" means a racetrack within the State which is operated by the holder of an annual permit to conduct a horse

race meeting and which is equipped to receive simulcast horse races and to conduct intertrack wagering on those races.

e. "In-State sending track" means a racetrack within the State which is operated by the holder of an annual permit to conduct a horse race meeting and which is equipped to provide simulcast horse races to a receiving track and to conduct intertrack wagering on those races.

f. "Out-of-State sending track" means a racetrack in a jurisdiction other than the State of New Jersey which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to a racetrack in this State.

g. "Simulcast horse races" means horse races conducted at an in-State sending track or an out-of-State sending track, as the case may be, and transmitted simultaneously by picture to a receiving track.

h. "Interstate common pool" means a parimutuel pool established within this State or in another state or foreign nation within which is combined comparable parimutuel pools of one or more receiving tracks located in one or more states or foreign nations upon a race at a sending track located within or outside of this State for the purpose of establishing pay-off prices in the various jurisdictions.

2. Section 7 of P.L.1985, c.269 (C.5:5-116) is amended to read as follows:

C.5:5-116 Distribution of wagers.

7. Except as otherwise provided in sections 8 and 10 of this act, and in sections 7 and 8 of P.L.1991, c.411 (C.5:5-123 and 5:5-124) and by the rules and regulations of the commission with respect to interstate common pools, sums wagered at the receiving track shall be deposited in the appropriate parimutuel pool generated at the in-State sending track for the race being transmitted and shall be distributed pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as if such sums were wagered at the sending track. Payment to persons holding winning tickets at the receiving track shall be made according to the same odds as those generated at the in-State sending track.

3. Section 8 of P.L.1985, c.269 (C.5:5-117) is amended to read as follows:

C.5:5-117 Distribution of purse money.

8. Except as provided by section 8 of P.L.1991, c.411 (C.5:5-124) and by the rules and regulations of the commission with respect to interstate common pools, the in-State sending track shall reserve and set aside out of the portion of the parimutuel

pool to be distributed as purse money pursuant to section 46 of P.L.1940, c.17 (C.5:5-66) an amount equal to 25%, of the amount that would be distributed as purse money pursuant to that section on the basis of the parimutuel pool generated at the receiving track. These sums shall be forwarded to the receiving track and shall be used to supplement the payment of overnight purses at the next horse race meeting to be conducted by the receiving track, except that if the receiving track is conducting a horse race meeting at the same time as the receipt of the simulcast horse races, the receiving track shall use those sums to supplement overnight purses at that horse race meeting.

4. Section 10 of P.L.1985, c.269 (C.5:5-119) is amended to read as follows:

C.5:5-119 Simulcasting of out-of-State races.

10. Notwithstanding any other law to the contrary, the New Jersey Racing Commission, upon application by a receiving track and in accordance with applicable federal law, may permit the track to receive simulcast horse races of national interest held at out-of-State sending tracks and to conduct parimutuel wagering thereon. Except as provided by section 7 of P.L.1991, c.411 (C.5:5-123) and by the rules and regulations of the commission with respect to interstate common pools, all receipts from wagering under this section shall form a pool at the receiving track and shall be distributed pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as if those receipts were the product of wagering on live races at that time at the receiving track.

5. Section 11 of P.L.1985, c.269 (C.5:5-120) is amended to read as follows:

C.5:5-120 In-State races simulcast out-of-State.

11. Notwithstanding any other law to the contrary, the New Jersey Racing Commission, upon application by an in-State sending track and in accordance with applicable federal law, may permit the track to contract with an entity in another jurisdiction to permit any legal wagering entity in the other jurisdiction to receive simulcast horse races run live at the in-State sending track and to conduct parimutuel wagering thereon within the other jurisdiction. The terms and conditions of the contract shall be established by the parties and may include as consideration therefor the receipt by the in-State sending track of a percentage of the sum wagered on a given race or races in accordance with the law of the receiving jurisdiction and may include participation in interstate common pools as provided by section 6 of P.L.1991, c.411 (C.5:5-122).

C.5:5-122 Interstate common pools.

6. Subject to applicable federal laws, the commission may permit receiving tracks which are authorized to receive simulcast horseraces of national interest held at out-of-State sending tracks pursuant to section 10 of P.L.1985, c.269 (C.5:5-119) and in-State sending tracks authorized to transmit simulcast horse races to other jurisdictions pursuant to section 11 of P.L.1985, c.269 (C.5:5-120) to participate in interstate common pools.

Except as provided in sections 7 and 8 of P.L.1991, c.411 (C.5:5-123 and 5:5-124) and by rule or regulation of the commission, all provisions of the laws of this State governing parimutuel wagering shall apply to interstate common pools.

Except as otherwise provided by rule or regulation of the commission, participation in an interstate common pool shall not cause any participating party to be deemed to be doing business in any state other than the state in which it is physically located.

C.5:5-123 Distribution of and wagering rules for receiving track parimutuel pools merged into interstate common pools.

7. With the prior approval of the commission, a receiving track which the commission has permitted to receive simulcast horse races of national interest held at out-of-State sending tracks and to conduct parimutuel wagering thereon pursuant to section 10 of P.L.1985, c.269 (C.5:5-119) may combine parimutuel pools in this state with comparable pools at the out-of-State sending track. The types of wagering takeout, distribution of winnings and rules of racing in effect for parimutuel pools at the sending racetrack shall govern wagers placed in this State and merged into the interstate common pool. Breakage for interstate common pools shall be calculated in accordance with the law or rules governing the sending racetrack and shall be distributed between participating jurisdictions in the manner agreed to between the receiving track and the out-of-State sending track.

With the prior approval of the commission and the concurrence of the out-of-State sending track, a receiving track and receiving tracks or entities in other states other than the state in which the sending track is located may form an interstate common pool. With respect to such interstate common pools the commission may approve types of wagering, takeout, distribution of winnings, rules of racing and method of calculating breakage which are different from those which would otherwise be applied in this State but which are consistent for all parties to the interstate common pool.

The receiving track may deduct from wagers placed in any interstate common pool any fee to the person or entity conducting the race for the privilege of conducting parimutuel wagering on the race and costs incurred in transmitting the broadcast of the race and participation in the interstate common pool.

Any provision of law or contract governing the distribution of shares of the takeout, from wagers placed in this State in separate parimutuel pools on races run in another state, to this State as parimutuel taxes or respectively to breeder awards and to purses in this State shall remain in effect for wagers placed in interstate common pools. However, if the commission shall have approved an adjustment in the takeout rates, the distribution of the takeout within this State shall be adjusted proportionately to reflect the adjustment in the takeout rate. In addition, with the approval of the receiving track and the organization representing respectively a majority of the breeders or other horsepersons, their respective share may be modified.

C.5:5-124 Wagering and distribution rules for sending track parimutuel pools merged into interstate common pools.

8. With the prior approval of the commission, an in-State sending track which the commission has permitted to contract with a legal wagering entity in another jurisdiction to receive horse races run live at the in-State sending track and to conduct parimutuel wagering thereon within the other jurisdiction may permit parimutuel pools in other States to be combined with its comparable wagering pools or with wagering pools established by other states. The commission may modify its rules and adopt separate rules governing interstate common pools and may establish separate rules governing the calculation of breakage for interstate common pools.

Parimutuel taxes shall not be imposed upon any amounts wagered in an interstate common pool other than upon amounts wagered in this State.

Any provision of law or contract governing the distribution of shares of the takeout from wagers placed in other states in separate parimutuel pools on races run in this State, to this State as parimutuel taxes or respectively to breeders and to purses in this State shall remain in effect for wagers placed in interstate common pools. However, with the approval of the in-State sending track and the organization representing respectively a majority of the breeders or other horsepersons, their respective share may be modified.

9. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 412

AN ACT concerning notification of certain public utilities, cable television companies and local utilities in connection with development applications, amending and supplementing P.L.1975, c.291 and supplementing Title 48 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.1975, c.291 (C.40:55D-3) is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

"Circulation" means systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways,

towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

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

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

"Conventional" means development other than planned development.

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

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

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

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

3.1. "Days" means calendar days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Planned unit residential development" means an area with a specified minimum contiguous acreage of 5 acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial, or public or quasi-public uses all primarily for the benefit of the residential development.

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

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

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

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

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

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

"Public drainage way" means the land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing

for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

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

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

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

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

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

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

4. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to read as follows:

C.40:55D-12 Notices of application, requirements.

7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall prevent the applicant from giving such notice if he so desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given at least 10 days prior to the date of the hearing.

a. Public notice of a hearing on an application for development shall be given, except for (1) conventional site plan review pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final approval pursuant to section 38 of P.L.1975, c.291

(C.40:55D-50); provided that the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance; and provided further that public notice shall be given in the event that relief is requested pursuant to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for development otherwise excepted herein from public notice. Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. Notice of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real property as shown on the current tax duplicates, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within seven days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection b. of this section. In addition, the administrative officer shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to subsection h. of this section. The applicant shall be entitled to rely upon the information contained in such list, and failure to give

notice to any owner or to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding. A sum not to exceed $0.25 per name, or $10.00, whichever is greater, may be charged for such list.

d. Notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

e. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

f. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

g. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. The notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

h. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection a. of this section shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L.1991. c.412 (C.40:55D-12.1), by (1) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (2) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

i. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this section.

j. Notice pursuant to subsections d., e., f., g. and h. of this section shall not be deemed to be required, unless public notice pursuant to subsection a. and notice pursuant to subsection b. of this section are required.

C.40:55D-12.1 Registration for notice to utility, CATV company.

5. a. Every public utility, cable television company and local utility interested in receiving notice pursuant to subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12) may register with any municipality in which the public utility, cable television company or local utility has a right-of-way or easement. The registration shall remain in effect until revoked by the public utility, cable television company, or local utility or by its successor in interest.

b. The administrative officer of every municipality shall adopt a registration form and shall maintain a record of all public utilities, cable television companies, and local utilities which have registered with the municipality pursuant to subsection a. of this section. The registration form shall include the name of the public utility, cable television company or local utility and the name, address and position of the person to whom notice shall be forwarded, as required pursuant to subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12). The information contained therein shall be made available to any applicant, as provided in subsection c. of section 7.1 of P.L.1975, c.291 (C.40:55D-12).

c. Any municipality may impose a registration fee of $10 on any public utility, cable television company or local utility which registers to receive notice pursuant to subsection a. of this section.

C.48:3-17.3a Notice of development applications.

6. Within 30 days after the effective date of this act, the Board of Regulatory Commissioners shall notify the corporate secretary of every public utility regulated by the board that, in order to receive notice by an applicant pursuant to subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12), the public utility shall register with any municipality in which the utility has a right-of-way or easement.

C.48:5A-20.1 Notice of development applications.

7. Within 30 days after the effective date of this act, the Board of Regulatory Commissioners shall notify the general manager of every cable television company that, in order to receive notice by an applicant pursuant to subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12), the cable television company shall register with any municipality in which the cable television company has a right-of-way or easement.

C.40:55D-12.2 Local utility notice of applications.

8. Within 30 days after the effective date of this act, the administrative officer of every municipality shall notify the corporate secretary of every local utility that, in order to receive notice by an applicant pursuant to subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12), the

utility shall register with the municipality or any other municipality in which the utility has a right-of-way or easement.

C.40:55D-12.3 Application of subsection h.

9. Failure to give notice as required pursuant to P.L.1991, c.245, shall not invalidate any hearing or proceeding held or to be held, or any preliminary or final approval granted or to be granted, from August 7, 1991 until 75 days following enactment.

10. This act shall take effect on the 30th day following enactment, except that section 4 shall take effect on the 75th day following enactment, section 5 shall take effect on the 60th day following enactment, and section 9 shall take effect immediately.

Approved January 17, 1992.

CHAPTER 413

AN ACT concerning outdoor advertising and roadside signs, supplementing Title 27 of the Revised Statutes, and repealing parts of the statutory law.

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

C.27:5-5 Short title.

1. This act shall be known and may be cited as the "Roadside Sign Control and Outdoor Advertising Act."

C.27:5-6 Findings, declarations.

2. The Legislature finds and declares that:

a. In order to balance the promotion of the safety, convenience and enjoyment of travel on the highways of this State with the protection of the recreational value and public investment therein, to preserve and enhance the natural scenic beauty and aesthetic features of the highways and adjacent areas while promoting development and economic vitality and facilitating the flow of speech and expression, of which providing messages of commercial, public and social value conveyed through the medium of roadside signs and outdoor advertising is an important part, roadside signs and outdoor advertising shall be regulated by this act.

b. With respect to the erection and maintenance of signs adjacent to the rights-of-way of the Interstate and Primary Systems within this State, it is the intention of the Legislature to provide a basis in the laws of this State for the regulation of roadside signs and outdoor advertising consistent with the public policy relating to those areas declared by the Congress of the United States in Title 23 of the United States Code and reflecting statutory enactments and judicial decisions of this State.

c. Supervision and regulation of signs and outdoor advertising, pursuant to the provisions of this act, shall be the responsibility of the Commissioner of Transportation and any person who creates or maintains any signs visible to the public shall be subject to the permitting and licensing provisions of this act and any regulations adopted by the Department of Transportation pursuant to this act.

C.27:5-7 Definitions.

3. As used in this act:

"Advertisement or advertising" means the use of any outdoor display or sign upon real property within public view, which is intended to invite or draw the attention of the public to any goods, merchandise, property, business, services, entertainment, amusement or other commercial or noncommercial messages.

"Commissioner" means the Commissioner of Transportation.

"Department" means the Department of Transportation.

"Highway" means any road, thoroughfare, street, boulevard, lane, court, trailway, right-of-way or easement used for, or laid out and intended for public passage of vehicles or persons.

"Interstate System" means those highways constructed within this State and approved by the Secretary of Transportation of the United States as an official portion of the national System of Interstate and Defense Highways, pursuant to the provisions of Title 23 of the United States Code.

"Limited access highway" means a highway especially designed for through traffic, over which abutters have no easement or right of light, air or direct access by reason of the fact that their property abuts upon that limited access highway.

"Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each separate roadway carrying traffic in opposite directions is a main traveled way. "Main-traveled way" shall not include frontage roads, turning roadways, or parking areas.

"Primary System" means any highway so designated by the State of New Jersey and approved by the federal authorities pursuant to Title 23 of the United States Code.

"Protected areas" mean all areas inside the boundaries of this State which are adjacent to and within 660 feet of the edge of the right-of-way of highways in the Interstate and Primary Systems and those areas inside the boundaries of this State which are visible from the highway but beyond 660 feet of the edge of the right-of-way of the Interstate and Primary Systems and are outside urban areas.

"Public view" means the area visible to persons traveling or operating motor vehicles at the legal speed limit on a highway.

"Sign" means any outdoor display or advertising on real property within public view which is intended to attract, or which does attract, the attention of pedestrians or the operators, attendants, or passengers of motor vehicles using the roads, highways, and other public thoroughfares and places, and shall include any writing, printing, painting, display, emblem, drawing, sign, or other device whether placed on the ground, rocks, trees, tree stumps or other natural structures, or on a building, structure, signboard, billboard, wallboard, roofboard, frame, support, fence, or elsewhere, and any lighting or other accessories used in conjunction therewith.

"Urban area" means a place as designated by the U.S. Bureau of the Census having a population of 5,000 or more within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary of Transportation of the United States. The boundaries shall, at a minimum, encompass the entire place designated by the U.S. Bureau of the Census.

"Visible" means capable of being seen and comprehended without visual aid by persons traveling on the highway.

C.27:5-8 License, permit required.

4. A person shall not erect, maintain or make available to another a roadside sign, or engage in the business of outdoor advertising for profit through the rental or other compensation received for the erection, use or maintenance of signs or other objects upon real property for the display of advertising matter on any stationary object within public view without first obtaining from the commissioner a license to engage in that business, and a permit for the erection, use and maintenance of each sign or other object used for outdoor advertising, except as provided in this act. A permit issued to a person required to obtain a license under this act shall not be valid unless the person has obtained a license which is in full force and effect.

C.27:5-9 Requirements for a permit.

5. Signs permitted by this act shall be by permit from the commissioner pursuant to conditions consistent with the regulations of the commissioner, and the following:

a. A sign may not attempt or appear to attempt to direct the movement of traffic or interfere with, imitate, or resemble any official traffic sign, signal or device, or include or utilize flashing, intermittent or moving lights, or utilize lighting equipment or reflectorized materials which emit or reflect colors, including, but not limited to, red, amber or green, except as may be authorized by the commissioner or by agreement between the commissioner and the Secretary of Transportation of the United States.

b. A sign may not interfere or be likely to interfere with the ability of the operator of a motor vehicle to have a clear and unobstructed view of the highway ahead or of official signs, signals or traffic control devices.

c. Illumination of a sign shall be effectively shielded so as to prevent light from being directed at any portion of the main-traveled way of the highway, or, if not so shielded, be of a sufficiently low intensity or brilliance as not to cause glare or impair the vision of persons operating motor vehicles on that highway, or otherwise impair the operation of a motor vehicle.

d. Signs shall be maintained in a safe condition with due regard for conditions of climate, weather and terrain, and as a condition of continued use or permit renewal, unsafe signs shall be remediated by maintenance or repair.

e. A sign may not be of a type, size, or character so as to endanger or injure public safety, health or welfare, or be injurious to property in the vicinity thereof.

f. A sign may not be painted, drawn, erected or maintained upon trees, rocks, other natural features or public utility poles.

g. Signs for which a permit has been issued shall display in a conspicuous position on the sign or its supporting structure, the name of the person holding the permit.

h. A sign or other object shall not in any way simulate any official, directional, traffic control or warning signs erected or maintained by any governmental agency.

C.27:5-10 Signs prohibited in right-of-way of Interstate and Primary Systems.

6. No sign shall be erected or maintained within the right-of-way of any portion of the Interstate and Primary Systems within this State, except that this prohibition shall not apply to signs,

public notices, or markers, erected or maintained by the department or with the approval of the department.

C.27:5-11 Exceptions for certain roadside signs.

7. a. No permit shall be issued by the commissioner for roadside signs to be erected or maintained in any protected area visible from the main-traveled way of any Interstate or Primary System highway within the State, except as provided herein.

(1) In protected areas, only the following signs shall be permitted, subject to the regulations of the commissioner:

(a) Directional and other official signs and notices which are required or authorized by law, and which conform to national standards promulgated by the Secretary of Transportation of the United States.

(b) Signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way, any part of which was acquired on or before July 1, 1956.

(c) Signs advertising activities conducted on the property on which they are located.

(2) In portions of protected areas on the Interstate System the following may also be permitted:

(a) Signs located in commercial or industrial zones within the boundaries of incorporated municipalities as those boundaries existed on September 21, 1959, and all other areas where the land use as of September 21, 1959 was clearly established by State law as commercial or industrial within 660 feet of the nearest edge of the right-of-way.

(b) Signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way, any part of which was acquired on or before July 1, 1956.

(3) In protected areas on the Primary System, the following signs may also be permitted:

(a) Signs located in areas which are zoned industrial or commercial under the authority of State law.

(b) Signs located in areas determined to be industrial or commercial pursuant to State law.

b. No permit shall be issued by the commissioner for signs to be erected or maintained in any other area not covered by paragraphs (1), (2) and (3) above, except that permits for the following signs may also be permitted:

(1) Signs located in areas which are zoned industrial or commercial under the authority of State law.

(2) Signs located in areas determined to be industrial or commercial pursuant to State law.

c. In those instances where the commissioner deems it is in the public interest, he may issue a permit for a sign on public property which would not otherwise be permitted under the provisions of this act, and impose conditions as he deems appropriate.

C.27:5-12 Exceptions for certain other signs or devices.

8. Unless otherwise provided for in this act, no permit shall be required for the use, maintenance or erection of a sign or other device which is to be used solely for any of the following purposes:

a. To advertise exclusively for sale or rent the property upon which the sign or other device is located;

b. For notices required by law to be posted or displayed;

c. For any official sign established pursuant to the provisions of the Manual of Uniform Traffic Control Devices erected on any public highway by the public authority having jurisdiction over that public highway;

d. For signs which are not adjacent to an Interstate or Primary System highway and which advertise activities conducted upon the property on which they are located; or

e. For any sign erected or maintained by the commissioner.

C.27:5-13 Licenses or permits; application, revocation.

9. a. Applications for licenses or permits shall be made on forms prescribed and furnished by the commissioner.

b. If an applicant for a license does not reside in this State or is a foreign corporation not authorized to do business in this State, the applicant shall:

(1) Authorize in the application service by the commissioner of any process, notice or order issuing out of or by any court, administrative agency or official of this State upon the applicant, and shall agree that such service be deemed to be personal service upon such applicant. The applicant shall provide in the application the name and address of the agent to receive service on behalf of the applicant. Notice of the service of process shall be given by the commissioner to the applicant by certified mail, return receipt requested, addressed to the applicant at the address given in the application, or another address of which the commissioner has been notified in writing by the applicant; and

(2) File a bond satisfactory to the commissioner as to form and surety running to the State of New Jersey in the sum of $5,000, conditioned upon compliance by the applicant with all the provisions of this act. Upon default in the condition of such bond, the

commissioner may enforce the collection thereof in any court of competent jurisdiction.

c. The commissioner may revoke, after notice and hearing, any permit or license if the commissioner finds that any statement made in an application therefor is materially false and any permit if the commissioner finds that a sign has been erected or maintained contrary to the approved application, or to any provision of this act, or to any of the regulations promulgated hereunder, and has not been brought into compliance therewith within 30 days after receipt of written notification of the intended revocation to the person to whom the license or permit was issued.

d. If an administrative hearing is requested or other legal action is commenced by the person to whom the license or permit was issued within 15 days of the receipt of the notice of the intended revocation, the period of time in which to comply with this act and these regulations and cure the violation complained of in the notice may be stayed pending a final disposition of the administrative or legal proceeding and, in the event the commissioner prevails, the person to whom the license or permit was issued shall have 20 days from receipt of the final decision to comply.

C.27:5-14 Licenses or permits; renewals.

10. a. Renewal of any license or permit issued after the effective date of this act may be refused for any ground sufficient for the revocation of a license or permit.

b. Licenses and permits for signs erected and maintained with a valid license or permit issued before the effective date of this act shall be renewed unless the commissioner finds that a statement made in the license or permit application is materially false or the sign has been erected or maintained contrary to the terms of the issued license or permit, in the event of which the commissioner may take any appropriate action under the authority of this act.

C.27:5-15 Violations of act; notice; removal.

11. a. Any sign or other object used for the display of outdoor advertising which is not authorized by a valid permit or specifically exempted from the requirement for a permit, or in violation of the provisions of this act, is declared unlawful. No person shall use, erect or maintain any sign or other object for the display of outdoor advertising after the expiration of this license and in the case of any sign, after the expiration of the permit for that sign.

b. Written notice to remove the sign shall be given by the commissioner to the following persons at their last known

address: the person holding the permit therefor and, if none, or if the address of the person to whom the permit was issued is not known, the owner of the real property on which the sign is located and the owner of the sign, any of whom shall be required to remove the sign within 30 days of receipt of the notice.

c. Upon failure to comply with the terms of the notice, the sign may be removed by order of the commissioner, unless a hearing has been requested by the person to whom notice has been given, or other legal action has been commenced which restrains this removal.

d. If the commissioner cannot ascertain the owner of the property or the owner of the sign for which a permit has not been issued, the commissioner may remove the sign 30 days after posting notice on the sign. Thereafter, the commissioner may enter upon private property without liability in order to remove the sign and may recover, from the owner or the person who unlawfully erected the sign, the cost of its removal or the amount of $500, whichever is greater.

e. The commissioner may institute any appropriate action or proceeding in a court of competent jurisdiction for the removal of a sign if the sign is not brought into compliance within the 30 days following written notification pursuant to subsection b. of this section.

C.27:5-16 Penalties.

12. A person who erects or maintains a sign or other object for outdoor advertising, or authorizes his name to be used in connection therewith, without complying with the provisions of this act, or the regulations issued thereunder, shall be liable for a penalty in an amount not less than $50 or to exceed $500, for each offense. Each day of violation may be deemed to be a separate offense. The nature and circumstances of the violation, the conduct of the violator in connection with the violation and the revenue derived from the violation shall be factors to be considered in the assessment of the amount and accrual of the penalty.

C.27:5-17 Enforcement by commissioner.

13. Any penalty imposed pursuant to this act may be collected, with costs, in a summary proceeding pursuant to "the penalty enforcement law," N.J.S. 2A:58-1 et seq. The Superior Court or municipal court in the county or municipality where the violation occurs or where the violator resides, has a place of business or principal office shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act. The commissioner may institute an action in the Superior Court for injunctive

relief to prevent and restrain any violation of this act, or any order issued, or rule or regulation adopted pursuant to this act.

C.27:5-18 Rules and regulations.

14. a. The commissioner may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act provided that a public hearing on the proposed rule or regulation shall be held with appropriate notice as provided in that act. These regulations shall include, but shall not be limited to: licensing and permitting fees; duration of licenses and permits; spacing, size, specifications and lighting of signs; procedures for referral of contested cases to the Office of Administrative Law; and other requirements pertaining to the issuance or denial of licenses and permits or for the erection or maintenance of signs, and other matters necessary to effectuate the purposes of this act. The commissioner also may adopt regulations governing new or innovative forms of signs so that they may be made to conform with the intent and purposes of this act.

b. In adopting regulations pursuant to this act, the commissioner shall give due consideration to:

(1) The safety, convenience and enjoyment of travel on the highways and to the public investment in those highways;

(2) The type of information needed by the traveling public when using those highways;

(3) Outdoor advertising industry standards, practices and technological advances;

(4) Promotion of safety and aesthetics through modernization, technological improvements and innovative construction, design and maintenance;

(5) The economic benefit of outdoor advertising to the commerce of this State; and

(6) The needs of the citizens of and travelers within the State to have access to commercial and non-commercial messages and ideas displayed by roadside signs.

C.27:5-19 Fees, penalties for administration of act; fees in lieu of other excises.

15. a. Moneys received from fees and penalties collected pursuant to this act shall be deposited with the State Treasurer, and shall be disbursed to the department to defray the expenses of administering the provisions of this act. Moneys received pursuant to the schedule of fees adopted by the commissioner shall not exceed the cost of administering the provisions of this act.

b. The fees for licenses and permits prescribed by this act shall be in lieu of all other governmental fees or excises for signs, or the carrying on of the business of outdoor advertising by means of signs.

C.27:5-20 State, federal agreements.

16. The commissioner is authorized to enter into agreements with the Secretary of Transportation of the United States, as provided pursuant to Title 23 of the United States Code relating to the control of signs, and to take action in the name of the State to comply with the terms of agreements. The commissioner is authorized to receive and expend federal or State funds in furtherance of these agreements.

C.27:5-21 Acquisition of property by the State.

17. The commissioner is authorized to acquire by gift, lease, purchase or condemnation, real and personal property, or the right to maintain signs for the purpose of implementing this act. The cost of the acquisition shall be considered as a part of the cost of a highway right-of-way. All persons whose sign and property or interest in property is purchased or otherwise acquired, except by gift to the State, shall receive just compensation therefor.

C.27:5-22 Safety rest areas, informational sites.

18. The commissioner is authorized to designate certain roadside areas as "safety rest areas" or "informational sites" and to regulate these sites. Safety rest areas or informational sites are hereby declared to be a "highway purpose" under the laws of this State.

C.27:5-23 Duty of law enforcement.

19. a. It shall be the duty of all departments of State or local government and all county and municipal officers charged with the enforcement of State and municipal laws under the direction of the commissioner to assist in the enforcement of the provisions of this act and the orders issued, or rules or regulations adopted pursuant to this act.

b. The Superintendent of State Police in the Department of Law and Public Safety and the Chief of Police of any municipality are authorized and charged under the direction of the commissioner to enforce the provisions of this act and any rules or regulations adopted pursuant thereto.

C.27:5-24 Effect of existing rules, regulations.

20. a. Any rules or regulations adopted by the commissioner concerning outdoor advertising that are in effect prior to the effective date of this act shall remain in effect until they are revised or superseded by regulations adopted by the commissioner pursuant to this act.

b. Following the effective date of this act and prior to the adoption of regulations pursuant to this act, the commissioner shall have the power and authority to waive or suspend enforcement of any existing rule or regulation which the commissioner deems inconsistent with the provisions of this act.

C.27:5-25 Effect on existing signs.

21. A sign erected and maintained with a valid permit issued before the effective date of this act, which does not comply with this act or the rules or regulations adopted pursuant hereto, may continue to be maintained, repaired and restored at the size, location, height, and setback set forth in the permit, including in the event of the partial destruction thereof, without limitation as to time, unless it is totally destroyed or abandoned, or the commissioner finds, pursuant to the authority granted under subsection b. of section 10 of this act, any grounds for revocation of the permit.

C.27:5-26 Effect on local ordinances or regulations.

22. This act shall not be construed to limit the powers of any political subdivision of this State to regulate land, streets, buildings or structures by zoning or other means, or to prohibit the enforcement of local ordinances or regulations in a manner consistent with the purposes of this act. In the event of conflict between the provisions of this act, or the regulations promulgated pursuant hereto, and an ordinance or regulation of an incorporated political subdivision of this State, the provisions of this act, or regulations promulgated pursuant hereto shall prevail to the extent necessary to permit the State to carry out the policy as declared herein, or to permit the State to comply with the terms of any agreements entered into pursuant to the provisions of this act.

Repealer.

23. The following are repealed:
R.S.27:5-1 through R.S.27:5-4 inclusive;
Sections 1 and 2 of P.L.1953, c.27;
P.L.1959, c.191 (C.54:40-50 et seq.);
P.L.1963, c.93 (C.27:7A-11 et seq.);
P.L.1971, c.68;
P.L.1971, c.353;
P.L.1975, c.325; and
Section 514 of P.L.1991, c.91.

24. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 414

AN ACT making certain mortgage loans from the Police and Firemen's Retirement System of New Jersey available to members of the retirement system and amending and supplementing P.L.1944, c.255.

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

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

C.43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement 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 annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(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) "Mortgage loan" shall mean any indebtedness secured by a mortgage on a residential property, which mortgage shall constitute a first lien on that property.

(30) "Residential property" shall mean 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.

C.43:16A-16.3 Mortgage loans, eligibility, terms.

2. 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 to the contrary of that or any other law, any member who, at the time of application, is employed by the State of New Jersey or a county, municipality or other political subdivision of this 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 from the retirement system a mortgage loan. Such a 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 to the retirement system 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 semi-annually 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 act, 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 retirement system may choose to insert for the protection of its lien and the preservation of its interest in the real property mortgaged to it.

C.43:16A-16.4 Administrations by NJHMFA.

3. The New Jersey Housing and Mortgage Finance Agency, established under section 4 of P.L.1983, c.530 (C.55:14K-4), shall administer the mortgage program for the board. The New Jersey Housing and Mortgage Finance Agency shall: a. originate loans on behalf of the board; 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-16.5 Loan standards, guidelines, fees.

4. 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 2 of this act.

C.43:16A-16.6 Acceleration of mortgage after move or quit.

5. Any member receiving a mortgage loan pursuant to the provisions of this act shall, within 120 days of the date on which the retirement system made that loan, 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.

If any member receiving a mortgage loan pursuant to the provisions of this act terminates, for any reason other than death, retirement, or layoff, including deferred and disability retirement, his employment with State government or a county, municipality or other political subdivision, the entire amount of that mortgage loan, together with any accrued interest thereon, shall be due and payable 120 days following that action.

C.43:16A-16.7 Funding of mortgage loans, requirements.

6. a. Notwithstanding any limitations, conditions, restrictions or authorizations regarding the investment or reinvestment of the moneys of the retirement system contained in section 11 of P.L.1950, c.270 (C.52:18A-89), in section 1 of P.L.1959, c.17 (C.52:18A-88.1) or in any other law, upon application of a member for a mortgage loan the retirement system 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 the retirement system shall make no mortgage loan at any time when the total of all principal balances owing to the retirement system on mortgage loans, 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 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. The retirement system shall make no mortgage loan secured by a mortgage on real property 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-16.8 Rules, regulations.

7. The State Treasurer shall, with the advice of the Commissioner of the Department of Banking, 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 in a manner consistent with the protection of the rights of members and beneficiaries of the retirement system.

8. This act shall take effect 90 days from enactment and shall expire five years after the effective date.

Approved January 17, 1992.

CHAPTER 415

AN ACT concerning certain employees of the Department of Environmental Protection, amending P.L.1966, c.54, and supplementing P.L.1970, c.33 (C.13:1D-1 et seq.).

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

1. Section 1 of P.L.1966, c.54 (C.13:1B-15.100) is amended to read as follows:

C.13:1B-15.100 Division of Parks and Forestry, director.

1. Within the Department of Environmental Protection there shall be a Division of Parks and Forestry.

The division shall be under the immediate supervision of a director, who shall be a person qualified by academic training and at least seven years of responsible professional experience in the management of public parks, forests, and outdoor recreation facilities to direct the work of such division.

C.13:1D-13.1 Unclassified titles.

2. a. Notwithstanding any provision of law to the contrary in Title 11A (Civil Service) of the New Jersey Statutes, the following titles in the Department of Environmental Protection shall be assigned or reassigned, within 60 days of the effective date of this act, to the unclassified service:

(1) Assistant commissioners; and

(2) Except as otherwise provided in subsection b. and d. of this section, division directors.

b. The titles of Director, Division of Personnel and Director, Division of Fiscal Management and General Services, in the Department of Environmental Protection, shall remain, as applicable, in the competitive division of the classified service or the senior executive service.

c. The Commissioner of Environmental Protection shall, within 60 days of the effective date of this act and thereafter, appoint all persons to the positions with titles assigned or reassigned to the unclassified service pursuant to this section, who shall serve at the pleasure of the commissioner.

d. The provisions of this section shall not apply to the Director of the Division of Fish, Game and Wildlife, as reconstituted pursuant to section 25 of P.L.1948, c.448 (C.13:1B-23).

C.13:1D-13.2 Reinstatement to classified service.

3. a. Any employee of the Department of Environmental Protection in the classified service holding a position on the effective date of this act that has been assigned or reassigned to the State unclassified service pursuant to section 2 of this act, who is not reappointed within the 60-day period to a position allocated to the State unclassified service pursuant to that section, shall be eligible to be reinstated to the position last held in the classified service prior to appointment to the position assigned or reassigned to the unclassified service.

b. An employee in the classified service appointed on or after the effective date of this act to a position in the department that is assigned or reassigned to the unclassified service pursuant to section 2 of this act, shall be eligible, upon termination of that appointment, to be reinstated to the position last held in the classified service prior to that persons's appointment to any position so assigned or reassigned pursuant to the provisions of Title 11A (Civil Service) of the New Jersey Statutes.

C.13:1D-13.3 Classified and senior executive service.

4. a. Within 60 days of the effective date of this act, the Department of Personnel shall, pursuant to N.J.S.11A:3-1, assign or reassign,

(1) to the competitive division of the classified service, the following titles in the Department of Environmental Protection:

(a) all Manager 3, Environmental Protection and Manager 3, Waste Management positions;

(b) all Manager 4, Environmental Protection, and Manager 4, Waste Management positions; and

(c) all Section Chief, Environmental Protection positions and all Section Chief, Waste Management positions; and

(2) to the senior executive service, the titles of Deputy Director and assistant director in the Division of Parks and Forestry, Department of Environmental Protection.

Employees serving in the unclassified service in any of the positions subject to paragraph (1) of this subsection, other than the titles of all Section Chief, Environmental Protection positions, on the date of assignment or reassignment of such titles, shall be appointed to the classified service through the non-competitive interim appointment process, and upon completion of the working test periods therefor, the positions shall be reallocated to the competitive division of the classified service.

b. All persons holding a position in any of the titles subject to the provisions of subsection a. of this section on the date of assignment or reassignment of such titles by the Department of Personnel, shall, as necessary, be transferred as of that date to, as appropriate, the competitive division of the classified service, or the senior executive service.

c. Within 60 days of the filing of a written request by the Department of Environmental Protection, the Department of Personnel shall, pursuant to N.J.S.11A:3-1, establish within the Department of Environmental Protection a title series for the department-wide processing of permits. The title series shall be,

except as other provided by law, in the competitive division of the classified service. The series shall provide a second career track wherein progression to higher level titles, including permit review titles equivalent to supervisory positions, shall be based on the assumption of permit review responsibilities of higher complexity without any supervisory responsibilities.

d. Appointments to any of the positions subject to this section shall be in accordance with applicable laws and rules, regulations, policies and practices of the Department of Personnel not inconsistent herewith.

e. The provisions of this section shall not apply to employees of the Division of Fish, Game and Wildlife, as reconstituted pursuant to section 25 of P.L.1948, c.448 (C.13:1B-23).

5. The Commissioner of Environmental Protection shall, on the 30th day of the third month following the effective date of this act, and semi-annually thereafter, submit a report identifying and listing the vacant positions within the department to the Senate Environmental Quality Committee, the Senate Revenue, Finance and Appropriations Committee, the Assembly Energy and Environment Committee, and the Assembly Appropriations Committee, or their successors. The provisions of this section shall expire five years following the effective date of this act.

6. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 416

AN ACT concerning information services and supplementing P.L.1960, c.39 (C.56:8-1 et seq.)

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

C.56:8-54 Application of consumer fraud act to information services.

1. An information service constitutes a service within the term "merchandise" as defined in P.L.1960, c.39 (C.56:8-1 et seq.), and the provisions of that law concerning the advertisement and

sale of merchandise shall have the same application to the advertisement and sale of an information service.

C.56:8-55 Definitions.

2. For the purposes of this act:

"Automatic dialing device" means equipment capable of being programmed to randomly or sequentially dial seven-digit or ten-digit telephone numbers and, upon connection, play back a pre-recorded message.

"Information service" means live or pre-recorded voice or computer-generated communication initiated by use of a telephone number for a fee or charge billed by or on behalf of the information service provider in addition to any charges for the local or long distance transmission or other services associated with the call which are subject to federal regulation or to regulation by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, but shall not include any regulated announcement services, directory or operator services offered by telephone companies, or services offered on a presubscription basis.

"Information service provider" means a person who advertises or sells an information service.

C.56:8-56 Unlawful practice without disclosures required.

3. a. It shall be an unlawful practice for a person to advertise or sell an information service unless the following information is clearly and conspicuously disclosed in all advertisements offering the information service:

(1) An accurate description of the service;

(2) The total price of the service, or, where a charge is based in whole or in part on the passage of time; the rate, by minute or other unit of time upon which that charge is based; any other charges being imposed for the service; and the total cost of any information service of predetermined length;

(3) Instruction to minors to obtain parental consent before engaging the information service; and

(4) The legal name and street address of the information service provider.

b. In any case in which the total price of the information service may exceed $5, it shall be an unlawful practice for a person to advertise or sell the information service unless:

(1) The disclosures required by paragraphs (1) and (2) of subsection a. of this section and, in the case of an information service aimed at or likely to be of interest to minors, an additional instruction directing

minors to hang up unless the minor has parental permission are clearly and prominently stated at the inception of the telephone call connecting the caller with the information service; and

(2) The caller is clearly notified of and afforded a reasonable opportunity to disconnect the call following the disclosure and prior to incurring any charge for the information service.

c. The preambles required for information services subject to the provisions of subsection b. of this section are intended to be consistent with the preambles required for interstate calls subject to the provisions of 56 Fed. Reg. 56165 (1991) (to be codified at 47 C.F.R. §64.709). In the event that such regulations are amended or replaced by federal law or subsequent federal regulation, the Director of the Division of Consumer Affairs is authorized to promulgate regulations modifying the provisions of this section to avoid conflict with federal requirements.

C.56:8-57 Unlawful practices.

4. It shall be an unlawful practice for a person to advertise or sell an information service that involves:

a. Advertisement through use of an automatic dialing device;

b. Access to the information service through use of signals or tones provided directly or indirectly by the information service provider;

c. The dialing of more than one telephone number for a fee;

d. The participation in a contest, raffle, lottery or game of chance which is illegal under New Jersey law;

e. Job or employment opportunities in violation of licensing, registration or other requirements of New Jersey law;

f. Charitable solicitation where the charity and the information service provider are not registered as required by New Jersey law or are not otherwise in compliance with New Jersey law; or

g. Accessing an information service in order to claim or receive information or notice concerning entitlement to a prize, gift, award or other thing of value, other than in connection with a lottery, type of lottery, or lottery game offered by the New Jersey State Lottery Commission.

C.56:8-58 Blocking of telephone access.

5. The Board of Public Utilities is directed to adopt rules and regulations providing a procedure whereby a subscriber, or the legal representative, guardian, or personal representative of a subscriber may request the telephone company to block access to an information service from the telephone of the subscriber. For purposes of this section, a personal representative is a person designated by the

subscriber to serve as the subscriber's representative to the telephone company in the case of billing, emergencies and related matters.

C.56:8-59 Rules, regulations, fees.

6. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Consumer Affairs may adopt regulations as authorized in section 3 of P.L.1991, c.416 (C.56:8-56) and as otherwise necessary to effectuate the purposes of this act, require information service providers to register with the Division of Consumer Affairs in the Department of Law and Public Safety and establish fees for this registration at a level which allows for the proper administration and enforcement of this act.

C.56:8-60 Injunctive relief, restraints on income.

7. In addition to powers exercised by the Attorney General pursuant to the provisions of section 8 of P.L.1960, c.39 (C.56:8-8) or any other law, when it shall appear to the Attorney General that an information service provider is about to engage in, is continuing to engage in, or has engaged in conduct which is in violation of this law, or when it is in the public interest, the Attorney General shall have the authority to seek and obtain in summary action in the Superior Court an injunction prohibiting the information service provider from advertising or selling information services, and may seek and obtain an order directing restraints against receipt and withdrawal of all money due or payable to the information service provider on account of the unlawful activity.

8. This act shall take effect on the first day of the third month following enactment.

Approved January 17, 1992.

CHAPTER 417

AN ACT requiring the Department of Environmental Protection to prepare and provide to the Legislature certain information on permit applications, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-114 Information on permit applications.

1. The Department of Environmental Protection shall compile information and maintain records concerning the review of, and

actions taken on, permit applications filed with the department, including, but not limited to, the following information:

(1) the number of permit applications received;

(2) the number of permits issued, modified, and denied;

(3) the number of permit applications pending;

(4) the number of permit applications deemed complete but not issued, modified, or denied;

(5) the status of all permit applications related to the same project or regulated activity undertaken, conducted, or engaged in by the applicant;

(6) the average period of time that elapses between the receipt of a permit application and an administrative review of the application for completeness;

(7) the average period of time that elapses between an administrative review of a permit application for completeness and its being deemed complete;

(8) the average period of time that elapses between a permit application being deemed complete and the issuance, modification, or denial of the permit;

(9) the average total period of time that elapses between the receipt of a permit application and the issuance, modification, or denial of the permit; and

(10) the number of personnel in each permit program assigned to review each type of permit.

To the extent practicable, the information required under this section shall be provided by class or category of permit, as established pursuant to section 1 of P.L.1991, c.423 (C.13:1D-105).

For purposes of this act:

"Permit" shall have the same meaning as in section 1 of P.L.1991, c.421 (C.13:1D-101).

"Administrative review" means a review to determine if all of the information identified on a checklist, which is required for a permit application to be deemed complete, has been submitted to the department.

C.13:1D-115 Semi-annual informational reports.

2. a. The Department of Environment Protection shall prepare, and submit to the Senate Environmental Quality Committee and the Assembly Energy and Environment Committee, or their successors as designated respectively by the President of the Senate and the Speaker of the General Assembly, a semi-annual report. The report shall include, for each type of permit issued by the department dur-

ing the reporting period, summaries of the records required to be maintained pursuant to section 1 of this act, and any other statistical or other type of information deemed pertinent by the department to evaluate the effectiveness of the permit review capabilities and performance of the department and its various divisions, bureaus, agencies, offices, and other administrative units. The report shall also identify recurring problems in the permitting process and procedures, citing any particular types of permits that are chronically subject to significant delays and backlogs and describing the causes thereof; suggest possible solutions to those recurring problems; provide an evaluation and analysis of the permit data and information collected and set forth in the report; and make recommendations for appropriate legislative or administrative action.

b. The department shall make copies of each semi-annual report available to the public for a charge not to exceed the cost of reproduction.

c. The first report prepared by the department pursuant to this act shall be submitted to the respective legislative committees not later than July 15, 1992, and shall include information for the period January 1 through June 30, 1992 as well as, to the maximum extent practicable, comparable information for the six month period, beginning July 1 through December 31, 1991. All subsequent reports shall be submitted to the legislative committees not later than the 15th day of the month next following the end of each six month period.

3. This act shall take effect on the 60th day following enactment.

Approved January 17, 1992.

CHAPTER 418

AN ACT concerning certain permit applications filed with the Department of Environmental Protection, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-110 Evaluation of applications, notice of deficiencies; definitions.

1. The Department of Environmental Protection shall, within 30 days of receipt of a permit application, evaluate each applica-

tion and supporting documentation thereon, to determine whether the application, and supporting documentation constitute a completed application for the purpose of commencing a technical review of the application. The evaluation shall identify the specific deficiencies in the permit application, if any. Written notice of the specific deficiencies shall be provided within the 30-day period to the applicant and, if other than the applicant, to the person or persons having prepared the incomplete submission.

For purposes of this section:

"Applicant" means the person in whose name the permit is to be issued.

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

2. This act shall take effect 120 days after enactment but shall remain inoperative pending the enactment of P.L.1991, c.419 (C.13:1D-116 to 13:1D-118); P.L.1991, c.420 (C.45:1-21 et al.); and P.L.1991, c.421 (C.13:1D-101 to 13:1D-104).

Approved January 17, 1992.

CHAPTER 419

AN ACT concerning continuing education seminars for certain persons, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-116 Continuing education seminars; fees; definitions.

1. a. The Department of Environmental Protection shall periodically, as necessary, but at least annually, for each class or category of permit as established in accordance with section 1 of P.L.1991, c.423 (C.13:1D-105), conduct, or contract with a qualified entity to conduct, continuing education seminars for any person who prepares, or otherwise provides information included

in, a permit application, or part thereof, or any supportive documentation submitted in conjunction therewith, filed with the department. The seminars shall provide an explanation of the procedural and substantive requirements pertaining to the preparation of a permit application or supportive documentation for each permit program, and of the contents of any applicable technical manual developed therefor by the department pursuant to P.L.1991, c.422 (C.13:1D-111 to 13:1D-113). If a seminar is conducted by the department, the department shall provide sufficient notice of the date, time, location, and content thereof to the appropriate professional organizations or trade associations of the person to whom the seminar is directed, and, in the case of a member of a regulated profession, the licensing board having jurisdiction over the regulated profession, in order that those bodies may inform their members or licensees of each pending seminar. The department shall consult and coordinate with the appropriate professional organizations, trade associations, and licensing boards in developing the curriculum and conducting the continuing education seminars. The department shall charge a seminar fee to cover the reasonable costs of developing and conducting a seminar.

b. The department may delegate to a qualified entity the responsibility to conduct, on behalf of the department, a continuing education seminar required pursuant to this section. The department shall prescribe and certify the nature and contents of the seminars to be conducted by a qualified entity.

As used in this act:

"Permit" shall have the same meaning as in section 1 of P.L.1991, c.421 (C.13:1D-101)

"Member of a regulated profession" means an engineer, planner, architect, landscape architect, or any other person subject to regulation pursuant to Title 45 of the Revised Statutes, who, acting in such professional capacity, prepares, on behalf of a client, a permit application, or part thereof, or any documentation provided in conjunction with the application, for submission to the Department of Environmental Protection.

"Licensing board" means a professional or occupational licensing board established pursuant to Title 45 of the Revised Statutes.

"Qualified entity" means a professional organization, trade association, an educational institution, or a licensing board.

C.13:1D-117 Record of attendees; conduct by qualified entity.

2. a. The department shall keep a record of the name of any member of a regulated profession attending a continuing educa-

tion seminar conducted pursuant to this act, and shall notify the licensing board having regulatory authority thereover of the attendance within 30 days thereof.

b. If the department delegates to a qualified entity the responsibility for conducting a continuing education seminar pursuant to section 1 of this act, the qualified entity shall satisfy the notice requirements of subsection a. of that section, and shall be entitled to charge a seminar fee to cover the reasonable costs of developing and conducting the seminar.

C.13:1D-118 Cooperation of professional licensing boards.

3. All professional licensing boards established by law shall cooperate with the department in implementing this act.

4. This act shall take effect 120 days after the date of enactment, but shall remain inoperative until enactment of P.L.1991, c.418 (C.13:1D-110), P.L.1991, c.420 (C.45:1-21 et al.), and P.L.1991, c.421 (C.13:1D-101 to 13:1D-104).

Approved January 17, 1992.

CHAPTER 420

AN ACT concerning regulated professions, and amending and supplementing P.L.1978, c.73.

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

1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read as follows:

C.45:1-21 Refusal to license or renew, grounds.

8. A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license

a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence, gross malpractice or gross incompetence;

d. Has engaged in repeated acts of negligence, malpractice or incompetence;

e. Has engaged in professional or occupational misconduct as may be determined by the board;

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

g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;

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

j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

C.45:1-21.1 Information on DEP application compliance, seminar attendance.

2. a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C.13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C.13:1D-110) regarding compliance with the department's requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C.13:1D-117).

b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C.45:1-3.2).

c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.).

3. This act shall take effect 120 days after enactment but shall remain inoperative pending the enactment of P.L.1991, c.418 (C.13:1D-110); P.L.1991, c.419 (C.13:1D-116 to 13:1D-118); and P.L.1991, c.421 (C.13:1D-101 to 13:1D-104).

Approved January 17, 1992.

CHAPTER 421

AN ACT concerning application review procedures of the Department of Environmental Protection, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-101 Checklist of requirements; permit defined.

1. Within 180 days of the effective date of this act, the Department of Environmental Protection shall provide each applicant, or prospective applicant, for a permit to engage in a regulated activity, with a checklist of all submissions required to be made as part of a filing of a permit application with the department.

A checklist shall be prepared by the department, after consultations with interested parties for each permit subject to the provisions of this act, or the department may consolidate the requirements for two or more related approvals into a single checklist. A checklist shall, with particularity, identify: the application form or forms required by the department for a completed application; any documents or other written submissions required to be filed with the application; any filing, notice, hearing or other requirement that is a precondition for review of an application by the department, including any certification of compliance therewith required by the department; and the technical manual for the permit prepared by the department pursuant to P.L.1991, c.422 (C.13:1D-111 to 13:1D-113). Checklists shall not be subject to the

notice and publication requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Checklists shall be reviewed at least annually, and shall be updated as often as necessary.

As used in this act:

"Permit" means any permit, registration or license issued by the Department of Environmental Protection establishing the regulatory and management requirements for an ongoing regulated activity as authorized by federal law or the following State enactments: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et seq.); the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26); the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151 (C.13:1E-99.21a et al.); the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.); the "Environmental Cleanup Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.); the "Toxic Catastrophe Prevention Act," P.L.1985, c.403 (C.13:1K-19 et seq.); "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.); the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.); P.L.1947, c.377 (C.58:4A-5 et seq.); the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

C.13:1D-102 Reliance on checklists; applications deemed complete; construction of section.

2. a. Checklists prepared pursuant to section 1 of this act shall constitute the exclusive and exhaustive list of items required to be submitted in order for a permit application subject to this act or to P.L.1975, c.232 (C.13:1D-29 et seq.) to be deemed administratively complete by the department, for the purpose of commencing a technical review of the application by the department, provided all submissions or certifications identified on the checklist therefor have been completed and filed with the department.

b. Within 30 days following the filing of an application subject to the provisions of this act, including any supportive documentation required to be filed in conjunction with the appli-

cation, the department shall notify an applicant if the application lacks a submission identified on the checklist therefor, or a submission has not been completed. If an application, including all necessary documentation is determined to be complete, or if a notice of incompleteness is not provided within 30 days of filing of the application, and all necessary documentation, the application shall be deemed complete for purposes of commencing a technical review thereof, and the time period established for completing a review of the application and taking final action thereon shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the completed application. Commencement of a technical review of an application shall not be delayed because of the failure of an applicant to file a submission not specifically identified on the checklist for that application that was in effect as of the date of the filing of the application.

c. Nothing in this section shall be construed to:

(1) limit the authority of the department to request at any time a submission that was not identified on the checklist for an application if the submission is required by State or federal law, or rule or regulation promulgated in accordance therewith, except that such additional submission shall not affect the time period allowed the department for reviewing and taking final action on a completed application;

(2) diminish the responsibility of an applicant to comply with all applicable requirements of State or federal law, or any rule or regulation promulgated in accordance therewith, or an order issued thereunder;

(3) compromise or limit any enforcement action available to the department pursuant to law; or

(4) exempt an applicant from complying with all applicable provisions of federal and State laws, or rules or regulations promulgated pursuant thereto.

C.13:1D-103 Applicants advised and informed by department.

3. The department shall advise a prospective applicant of his right to request a pre-application conference with appropriate departmental staff, and of the estimated time period required by the department to review and take final action on a completed application. Within 20 days of the date that an application is determined to be complete, or is required to be deemed complete pursuant to subsection b. of section 2 of this act, the department

shall inform the applicant of the names of the individuals assigned to review the application.

C.13:1D-104 Guidance provided, pre-application conference.

4. a. Within 30 days of receipt of a written request therefor, the department shall convene a pre-application conference to provide guidance to a prospective applicant regarding any application for a permit subject to the provisions of section 1 of this act. A pre-application conference shall be requested on a pre-application conference request form prepared by the department. The filing of a request form by a prospective applicant shall be accompanied by a conceptual plan of the proposed project for which departmental approval may be sought. The pre-application form shall advise prospective applicants that the purpose of the pre-application conference is to discuss the general requirements of the department with regard to the type of application identified by a prospective applicant and, if requested, to discuss the conceptual plan for the proposed project. A pre-application conference is not to be used for the purpose of procuring consulting services for the preparation of an application. The conceptual plan and supportive information submitted in conjunction therewith shall be for discussion purposes only, and such discussion shall not be binding either on the department or the applicant with respect to an application subsequently filed by the applicant unless otherwise expressly agreed to by the parties.

b. Within 30 days of a written request therefor by an applicant, the department shall notify an applicant of the status of his application and of any outstanding issues relating to the review of the application.

5. This act shall take effect immediately, but shall remain inoperative until the enactment of P.L.1991, c.418 (C.13:1D-110), P.L.1991, c.419 (C.13:1D-116 to 13:1D-118), and P.L.1991, c.420 (C.45:1-21 et al.).

Approved January 17, 1992.

CHAPTER 422

AN ACT concerning the development of technical manuals for permits issued by the Department of Environmental Protection, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-111 Technical manual for each class of permit, requirements.

1. Within 12 months of the effective date of this section, the Department of Environmental Protection shall develop a technical manual for each class or category of permit, as established pursuant to section 1 of P.L.1991, c.423 (C.13:1D-105), issued by the department. Each manual shall define the procedural and substantive requirements for the completion of an application for a class or category of permit and the review thereof, and shall clarify departmental policies and interpretations of any laws, rules, and regulations relating to the filing and review of the application. Each technical manual shall also:

a. Provide a detailed summary and explanation of any policy considerations not otherwise identified by law, rule, or regulation that are used in the department's review and consideration of the permit application;

b. Detail and clarify the department's interpretation of any standards or other requirements that do not have a fixed meaning or are not defined by law, rule, or regulation, including, but not limited to, identification or stipulation of state-of-the-art control technologies and best management practices; and

c. Include any other general information about department policies that would facilitate the preparation by an applicant, and the review by the department, of an application.

d. Adoption of a technical manual, or of revisions thereto, shall not be subject to the notice and publication requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

As used in this act:

"Permit" shall have the same meaning as in section 1 of P.L.1991,c.421 (C.13:1D-101).

C.13:1D-112 Effect of technical manual on filed applications; revisions.

2. a. Policies and interpretations contained in a technical manual developed pursuant to section 1 of this act and in force on the date that an application for a permit subject to that technical manual has been filed, shall be binding upon both the department and a permit applicant, except as otherwise required under federal or State law, or rule or regulation promulgated thereunder, or an order of the court; however, if an application is determined to be incomplete, the date of filing shall be the date that the information required for a completed application is filed with the

department. Any revision made to a technical manual shall have no effect upon a permit application that was submitted to the department prior to adoption of the revision.

Nothing in this section shall be construed to:

(1) exempt an applicant from complying with all applicable federal and State laws, or rules or regulations adopted thereunder, including compliance with the requirements of a permit issued by the department; or

(2) compromise or limit any enforcement action available to the department pursuant to law.

b. The department shall periodically, but not more frequently than every six months, except as otherwise required by federal or State law, or rules or regulations adopted thereunder, update and revise a technical manual.

C.13:1D-113 Availability of copies; fees.

3. The department shall make copies of technical manuals developed pursuant to this act readily available to prospective applicants for department permits and the public, and may charge a reasonable fee to cover the reasonable costs of producing the manuals.

4. This act shall take effect immediately, except that sections 2 and 3 shall take effect one year after the date of enactment of this act.

Approved January 17, 1992.

CHAPTER 423

AN ACT concerning procedures for the review of applications filed with the Department of Environmental Protection, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-105 Classification system for permits.

1. Within 120 days of the effective date of this act, the Department of Environmental Protection shall establish classes or categories (hereinafter referred to as a "classification system") for all permits, as defined pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), issued by the department, authorizing an

applicant to engage in a regulated activity. The classification system shall be based upon: the nature and complexity of an application and of the supportive documentation or other information required therefor; and the nature and magnitude of potential environmental or health impacts that could result from issuance of a permit approval.

C.13:1D-106 Review schedules for classes of permits.

2. a. Within 120 days of the effective date of this act, the department shall adopt guidelines establishing review schedules for each class or category of permit established pursuant to section 1 of this act, which guidelines shall serve as goals of the department. Review schedules shall set forth the estimated time required by the department to review and take final action on an application therefor. The time-frame established for each permit, license, certificate, registration or other approval shall correspond to the scope and complexity of the application; the magnitude of potential environmental or health impacts; the length of time needed for public notice or hearing requirements, or afforded to government agencies, other than the department, to review and comment on an application prior to final action thereon by the department; and such other relevant considerations as may affect the length of time reasonably required for the efficient, effective and equitable processing of, and the taking of a final action on, an application. The department may, from time to time, alter particular review schedules in order to effectuate more efficient, effective and equitable review of applications.

b. The review schedules shall serve as guidelines only for departmental review of applications for the different classes or categories of permits.

c. The department shall adopt an expedited review schedule for permit applications authorizing remediation or corrective actions to clean up or remove pollutants from surface waters or groundwaters.

d. In adopting review schedules, the department may consider using the following time-frames: over-the-counter or mail service approvals; 45-day review periods; 90-day review periods; 180-day review periods; and review periods in excess of 180 days; or such other specific time-frames as the department may deem appropriate.

e. Nothing in this section shall be deemed to authorize any change in a review period established by law.

C.13:1D-107 Level of review, identification.

3. Within 120 days from the effective date of this act, the department shall identify for each class or category of permit the

administrative level within the department responsible for the review of, and the taking of final action on, an application therefor, which shall include the identity of each division, bureau or other agency, and the name and business address and telephone number of the employee designated by each division, bureau or other agency to provide information on applications filed with the department.

C.13:1D-108 Publication of information on classes and review.

4. a. Within 150 days from the effective date of this act, the department shall publish in the New Jersey Register the classification and review schedule guidelines adopted pursuant to sections 1 and 2 of this act, the identity of the administrative levels involved in the review, and the methodologies or factors used in establishing the classification system and review schedules. Copies of the information required to be published in the New Jersey Register shall, as soon as practicable, be provided to the Speaker of the General Assembly and the Assembly Energy and Environment Committee, and the Senate President and the Senate Environmental Quality Committee, or the successor to the Assembly or Senate committee.

b. A change in any information required to be published pursuant to subsection a. of this section shall be published in the New Jersey Register within 30 days following adoption of the change.

c. Classification and review schedule guidelines adopted in accordance with this act shall not, for purposes of adoption, be subject to the notice and publication requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.13:1D-109 Reports on application dispositions.

5. a. Not later than February 1 of each year for three consecutive years, beginning on February 1 next following the first full year of implementation of the review schedules adopted pursuant to section 2 of this act, the department shall submit to the Speaker of the General Assembly and the Assembly Energy and Environment Committee, and to the President of the Senate and the Senate Environmental Quality Committee, or the successor to the Assembly or Senate committee, a report on the disposition of all applications filed in the preceding year for which review schedules have been established pursuant to section 2 of this act. The report shall contain the following information for each class or category of permit, certificate, registration, license or other

approval for which application was made, and the review schedule therefor:

(1) the number of applications filed with the department;

(2) the number of completed applications reviewed by the department, and the average number of days required from the date of filing of an application to determine the application's completeness;

(3) the number of completed applications on which the department took final action within the time-frame allotted in the review schedule;

(4) the number of completed applications on which the department failed to take final action within the time-frame established therefor, and the average number of days in excess of that time-frame required for the taking of final action thereon;

(5) the number of completed applications on which the department failed to take final action within the time-frames of the review schedules, where the cause of delay was the result of an applicant's failure to provide in a timely manner additional information required by the department, a failure of a governmental agency, other than the department, to comment or take final action on the application within the time allotted therefor, or for such other reasons (identify) as are beyond the control of the department.

b. The report shall also contain an assessment of the review schedules or procedures, including:

(1) identification of any special problems, including administrative bottlenecks or manpower or other resources, hampering the achievement of review schedule guidelines;

(2) evaluation of the adequacy of existing review schedules in promoting an efficient, effective and equitable processing of applications;

(3) identification of any changes made in review schedules during the preceding year and the reasons therefor, and of any significant management initiatives taken by the department to improve the review process; and

(4) such recommendations for simplifying, expediting or otherwise improving the review process as the department determines will best promote more efficient, effective and equitable review processes.

6. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 424

AN ACT concerning permit reviews by the Department of Environmental Protection, and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-119 Reports on backlogs of review of permit applications.

1. a. The Department of Environmental Protection shall report, in writing, to the Assembly Energy and Environment Committee and Senate Environmental Quality Committee, or their successors, whenever the number of applications for a given class or category of permits, as established pursuant to section 1 of P.L.1991, c.423 (C.13:1D-105), that is pending before the department exceeds by more than:

(1) 33% the maximum number of permit applications that can be reviewed on a timely basis at current staff levels, as determined by the department. Vacant staff positions shall be excluded for purposes of determining current staff levels; or

(2) 10% the number of permit applications determined to be complete for purposes of technical review and pending before the department, which percentage of applications remain outstanding for more than 45 days beyond the time-frame for completing the review of that class or category of permits as contained in the review schedule therefor established pursuant to section 2 of P.L.1991, c. 423 (C.13:1D-106).

b. Department reports shall be submitted to the legislative committees within 15 days of a determination that either condition specified in subsection a. of this section exists. The report shall identify the nature of the condition requiring the submission of a report, including the class or category of permits involved; detail current work force levels, and work load and productivity levels; provide a plan and schedule for, as applicable, reviewing the applications in a timely manner, or completing the outstanding reviews in an expeditious manner; and identify with specificity any additional resources, including qualified private consultants, that are required by the department to effectuate the department's plan.

2. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 425

AN ACT concerning environmental cases within the Office of Administrative Law and supplementing P.L.1978, c.67 (C.52:14F-1 et seq.).

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

C.52:14F-12 Environmental unit.

1. a. The Director of the Office of Administrative Law shall, within 12 months after the effective date of this act, establish within the Office of Administrative Law an environmental unit consisting of administrative law judges having special expertise in environmental law. The number of administrative law judges in the environmental unit shall be proportional to the number and complexity of environmental cases referred to the office.

b. Upon the establishment of the environmental unit, all contested cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), concerning environmental law referred to the Office of Administrative Law shall be assigned to and adjudicated by the administrative law judges in the environmental unit.

C.52:14F-13 Environmental workload reports.

2. The director shall, within 12 months after enactment, and annually thereafter, notify the Assembly Energy and Environment Committee and the Senate Environmental Quality Committee or their successors, of the number of cases pending in the Office of Administrative Law, the total number of Administrative Law Judges serving in the office, the number of Administrative Law Judges serving in the environmental unit and the number of environmental cases assigned to the environmental unit.

3. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 426

AN ACT concerning environmental program fees and supplementing Title 52 of the Revised Statutes.

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

C.52:27B-20.1 Short title.

1. This act shall be known and may be cited as the "Environmental Fee Accountability Act of 1991."

C.52:27B-20.2 Findings, determinations.

2. The Legislature finds and determines that:

The Department of Environmental Protection is one of the largest executive agencies in the State, and exerts considerable influence on the economy and quality of life in the State;

In recent years, revenues from fees generated by departmental enforcement and other activities have accounted for a steadily increasing percentage of total departmental revenues;

A significant percentage of fee revenues is anticipated by the department each state fiscal year as "off-budget" or "below the line" revenue, for which inadequate program data or no program data are provided to the Legislature;

This deleterious trend is clearly illustrated by the Governor's proposed budget for the 1992 State fiscal year, in which the department anticipates receiving over $161 million in fees and fines, only $59.7 million, or a mere 37% of which is anticipated "on budget;"

It is the Constitutional responsibility of the Legislature to adopt a budget for each State fiscal year, and, as a fundamental principle of sound fiscal policy, the Legislature must be able to perform a detailed evaluation of major State spending programs;

It is, therefore, entirely proper and in the interest of the people of this State, that the Legislature require the Department of Environmental Protection to include, as part of its annual budget proposal, all fee revenues and anticipated fee revenues as "on budget" or "above the line" items, to provide the same date for the programs funded by those revenues as is provided for other spending programs, and to make such information available to the budget committees and the key environmental policy committees in the Legislature; and

It is also entirely proper, and in the interest of the people of this State, that the Legislature require the State Treasurer, in preparing the Governor's proposed budget for each State fiscal year, to include all anticipated fee revenues for the department "on budget," or "above the line," and to include these fees and the appropriate program information in the public document containing that proposed budget.

C.52:27B-20.3 Definitions.

3. As used in this act:

"Department" means the Department of Environmental Protection.

"Fee" means any fee, assessment or other charge imposed by the department pursuant to any law, rule or regulation for licenses, permits or other approvals, or for regulatory actions or services performed or provided by the department pursuant to federal or State law.

"Program" means any regulatory or other activity, or systematically designed group of activities, undertaken by the department pursuant to law, for which the department imposes a fee.

C.52:27B-20.4 DEP fees as anticipated revenues; statistical information required.

4. a. In preparing the Governor's proposed budget, for each State fiscal year, the State Treasurer shall include the total estimated amount of fees anticipated by the department for that fiscal year as Schedule I Anticipated Revenues.

b. In addition to such other information as the State Treasurer deems necessary to include in the objectives, program classifications and evaluation data of all programs administered by the department and funded entirely or in part by fees, the Treasurer shall include, in the Governor's proposed budget for each State fiscal year, the information which is required of the department pursuant to section 5 of this act.

In the case of two or more fees which fund the same program, the information required pursuant to this subsection may be aggregated to reflect such overlap.

C.52:27B-20.5 Program statements, data required.

5. a. In preparing its budget proposal for each State fiscal year, the department, no later than February 15 of the current State fiscal year, shall compile and submit to the State Treasurer, to the General Assembly Appropriations Committee and the Senate Revenue, Finance and Appropriations Committee, or their respective successors, and to the General Assembly Energy and Environment Committee and the Senate Environmental Quality Committee, or their respective successors, a statement for each program funded entirely or in part by fees, identifying:

(1) The objectives of the program;

(2) The program classification, which shall include a summary description of all activities undertaken by each program;

(3) For the current State fiscal year, each of the two immediately preceding State fiscal years, and the State fiscal year for which the budget is proposed, program activity data, including, but not limited to, a listing of: activities performed; applications

submitted and reviewed for permits, licenses or other approvals; permits, licenses or other approvals issued; planning documents reviewed; inspections performed; enforcement actions taken; remediations overseen; acreage managed; fish and game propagated and released; and studies conducted or contracted for; and

(4) For the current State fiscal year, each of the two immediately preceding fiscal years, and the State fiscal year for which the budget is proposed, personnel data, including but not limited to: the total number of positions; the total number of budgeted positions; the number of positions budgeted for in lump sum appropriations; the number of positions supported by the appropriate fees; the number of positions supported by federal funds; all other authorized positions; and the number of vacant positions.

b. In the case of a program which is funded in part by fees and in part by other sources of revenue, the department shall supply a breakdown of the percentages and relative amounts of all respective sources of revenue used to fund the program, and, if not provided pursuant to paragraph (4) of subsection a. of this section, the number and percentage of personnel involved in the program who are supported by each source of revenue.

c. The data required pursuant to paragraphs (3) and (4) of subsection a. of this section, and pursuant to subsection b. of this section, shall be actual data, revised estimated data or estimated data, in accordance with directives of the State Treasurer concerning budget program data in general.

6. This act shall take effect immediately, and shall apply to the proposed departmental and State budgets for the 1993 State fiscal year, and each subsequent State fiscal year.

Approved January 17, 1992.

CHAPTER 427

AN ACT concerning environmental program fees, and supplementing Title 13 and Title 52 of the Revised Statutes.

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

C.13:1D-9.1 Definitions.

1. As used in this act:

"Department" means the Department of Environmental Protection.

"Fee" means any fee, assessment or other charge imposed by the department pursuant to any law, rule or regulation for licenses, permits or other approvals, or for regulatory actions or services performed or provided by the department pursuant to federal or State law.

"Program" means any regulatory or other activity by the department, required or permitted by law, for which the department imposes a fee.

"Program costs or costs" means all direct and indirect costs incurred by the department in implementing a program for which a fee is assessed and collected.

C.13:1D-9.2 Report on department fees, requirements.

2. On or before December 31, 1991 and December 31 of each year thereafter, the department shall submit to the Governor, the Legislature, and the State Auditor a written report setting forth information concerning the imposition, collection and expenditure of fees imposed by the department. The report shall contain a section setting forth the following information:

a. A list of the fees imposed or assessed, by program, during the preceding fiscal year, and the statutory or regulatory authority for each;

b. An explanation of the methodology used to calculate the fees for each specific program;

c. The total amount of fees imposed, by specific program where appropriate, during the preceding fiscal year;

d. The total amount of fees collected, by program where appropriate, and the total amount of all fees collected for all programs during the preceding fiscal year, and all fees reappropriated for the preceding fiscal year from the next preceding fiscal year;

e. The total amount of fees expended for each program and the grand total expended during the preceding fiscal year;

f. The percentage of each program listed according to this section which is funded by fees, appropriations from the General Fund, appropriations of bond revenues, federal funds, and other sources;

g. Estimates of the total amount of fees, by program where appropriate, anticipated to be imposed, collected, expended and carried forward during the current fiscal year and the next fiscal year;

h. The number of licenses, permits or other approvals applied for and issued pursuant to each program;

i. The number of personnel, by program, whose positions are funded by fees, and the percentage of the total personnel employed in each such program which this number represents;

j. The number of personnel, by program and funding source, funded by other revenue sources;

k. The number and percentage of personnel throughout the department whose positions are funded, wholly or in part, by fees;

l. The percentage of all departmental revenues and expenditures represented by fees for the appropriate fiscal year;

m. The total amount of all fines or other penalties assessed, and the amounts collected;

n. The total amount, by program, of all fines or other penalties assessed by the department, and the amounts collected, including environmental fines or other penalties collected on behalf of the department, and their disposition; and

o. For each fiscal year following the date on which the Environmental Program Fee Fund is created pursuant to section 3 of this act, the total amounts of transfers to and from each subaccount.

C.13:1D-9.3 Environmental Program Fee Fund.

3. Notwithstanding any law, rule or regulation to the contrary, and beginning with each State fiscal year commencing on and after July 1 next following the effective date of this act, there shall be established in the department a non-lapsing revolving fund to be known as the "Environmental Program Fee Fund," hereinafter referred to as "the fund." The fund shall contain a separate subaccount for fees imposed for each specific program. All fees collected by the department shall be deposited in the appropriate subaccount. The fee revenues deposited in each subaccount shall be appropriated and used only for the costs of the program for which the fees were imposed; provided, however, that if the report required to be prepared by the department pursuant to section 2 of this act is not received by the Legislature by December 31 of any fiscal year, all unobligated revenues in each subaccount in the fund, for which a report has not been received by the Legislature, may not be used to support the designated program until such time as the report on the subaccount or subaccounts has been received by the Legislature. An additional appropriation shall not be required in order for the department to expend monies from a subaccount for which a report is received by the Legislature after December 31.

C.52:24-4.3 Annual audit and report on DEP fees, requirements.

4. The State Auditor shall, as part of his responsibility under R.S.52:24-4, conduct a post-audit of each account in the Depart-

ment of Environmental Protection for which fees accrue, and shall issue a special report each year on such fees and fee accounts to the Governor and the Legislature. In conducting the post-audit, the State Auditor shall use the report required to be prepared by the department pursuant to section 2 of this act, and may require the department to supply such additional documents as are necessary and pertinent to the post-audit. Notwithstanding the provisions of any law, rule or regulation to the contrary, the reports shall be due on or before March 1 of 1992 and March 1 of each succeeding year. Each annual report shall include, but not be limited to, the following information and analysis on fees or fee subaccounts, as appropriate, for the previous fiscal year:

a. The extent to which the calculation of each fee conforms to the requirements, if any, of the statute or rule or regulation authorizing or imposing the fee;

b. The extent to which the method of calculating each fee reflects the cost of the regulation, service or other activity for which it is imposed;

c. The extent to which revenues accruing to the department from each fee are expended for the regulation, service or other activity for which it is imposed;

d. Surpluses in each fee account or subaccount, as the case may be, of revenue from fees, expressed both as a dollar amount and as a percentage of the amount imposed and collected during the appropriate fiscal year; and

e. Transfers of funds involving fee revenues during the appropriate fiscal year.

5. This act shall take effect immediately.

Approved January 17, 1992.

CHAPTER 428

AN ACT concerning the regulation of telecommunications carriers and supplementing chapter 2 of Title 48 of the Revised Statutes.

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

C.48:2-21.16 Findings, declarations.

1. a. The Legislature finds and declares that it is the policy of the State to:

(1) Maintain universal telecommunications service at affordable rates.

(2) Ensure that customers pay only reasonable charges for local exchange telecommunications services, which shall be available on a nondiscriminatory basis.

(3) Ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of providers of telecommunications service.

(4) Provide diversity in the supply of telecommunications services and products in telecommunications markets throughout the State.

(5) Permit the board the authority to approve alternative forms of regulation in order to address changes in technology and the structure of the telecommunications industry; to modify the regulation of competitive services; and to promote economic development.

b. The Legislature further finds and declares that:

(1) In a competitive marketplace, traditional utility regulation is not necessary to protect the public interest and that competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation.

(2) Whether measured by the number of interexchange companies operating in New Jersey, the variety and number of services and/or competitive alternatives, or barriers to entry, the interexchange telecommunications marketplace in New Jersey is sufficiently competitive to relieve interexchange telecommunications carriers from traditional utility regulation.

(3) Permitting the competitive interexchange telecommunications marketplace to operate without traditional utility regulation will produce a wider selection of services at competitive market-based prices.

(4) The board has found the interexchange telecommunications market place sufficiently competitive to relieve interexchange carriers from traditional utility regulation but found it lacked the authority to eliminate unnecessary regulatory constraints under the existing public utility statute.

(5) It is in the public interest to relieve interexchange telecommunications carriers from traditional utility regulation.

C.48:2-21.17 Definitions.

2. As used in this act:

New Jersey State Library

"Alternative form of regulation" means a form of regulation of telecommunications services other than traditional rate base, rate of return regulation to be determined by the board and may include, but not be limited to, the use of an index, formula, price caps, or zone of rate freedom.

"Assess" means, in relation to the Director of the Division of Rate Counsel, the making of any assessment or statement of the compensation and expense of counsel, experts and assistants employed by rate counsel and billed by the Director of the Division of Rate Counsel as a final agency order or determination to a local exchange telecommunications company or an interexchange telecommunications carrier filing a petition with the Board of Regulatory Commissioners pursuant to the provisions of this act.

"Board" means the Board of Regulatory Commissioners or its predecessor agency.

"Competitive service" means any telecommunications service determined by the board to be competitive prior to the effective date of this act or determined to be competitive pursuant to sections 4 or 5 of this act, or any telecommunications service not regulated by the board.

"Interexchange telecommunications carrier" means a carrier, other than a local exchange telecommunications company, authorized by the board to provide long-distance telecommunications services.

"LATA" means Local Access Transport Area as defined by the board in conformance with applicable federal law.

"Local exchange telecommunications company" means a carrier authorized by the board to provide local telecommunications services.

"Protected telephone services" means any of the following telecommunications services provided by a local exchange telecommunications company, unless the board determines, after notice and hearing, that any of these services is competitive or should no longer be a protected telephone service: telecommunications services provided to business or residential customers for the purpose of completing local calls; touch-tone service or similar service; access services other than those services that the board has previously found to be competitive; toll service provided by a local exchange telecommunications company; and the ordering, installation and restoration of these services.

"Rate counsel" means the Division of Rate Counsel in the Department of the Public Advocate acting pursuant to section 19 of P.L.1974, c.27 (C.52:27E-18).

"Telecommunications service" means any telecommunications service which is subject to regulation by the board pursuant to Title 48 of the Revised Statutes.

C.48:2-21.18 Plans for alternative form of regulation, petition, requirements.

3. a. A local exchange telecommunications company may petition the board to be regulated under an alternative form of regulation. The company shall submit its plan for an alternative form of regulation with its petition. The company shall also file its petition and plan concurrently with the Director of the Division of Rate Counsel. The board shall review the plan and may approve the plan, or approve with modifications, if it finds, after notice and hearing, that the plan:

(1) will ensure the affordability of protected telephone services;

(2) will produce just and reasonable rates for telecommunications services;

(3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services;

(4) will reduce regulatory delay and costs;

(5) is in the public interest;

(6) will enhance economic development in the State while maintaining affordable rates;

(7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review; and

(8) specifically identifies the benefits to be derived from the alternative form of regulation.

b. Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-21, R.S.48:3-1.1 and section 31 of P.L.1962, c.198 (C.48:2-21.2) or any other law to the contrary, in determining just and reasonable rates, the board may authorize a local exchange telecommunications company to set rates based on an alternative form of regulation pursuant to a plan approved under subsection a. of this section.

c. No local exchange telecommunications company may use revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services.

d. The board shall have the power to require an independent audit or such accounting and reporting systems from local exchange telecommunications companies as are necessary to allow a proper allocation of investments, costs or expenses for all telecommunications services, competitive or noncompetitive, subject to the jurisdiction of the board.

C.48:2-21.19 Competitive services, rates not regulated; conditions.

4. a. Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-1, or any other law to the contrary, the board shall not regulate, fix or prescribe the rates, tolls, charges, rate structures, terms and conditions of service, rate base, rate of return, and cost of service, of competitive services. The board may require the local exchange telecommunications company or interexchange telecommunications carrier to file and maintain tariffs for competitive telecommunications services.

b. The board is authorized to determine, after notice and hearing, whether a telecommunications service is a competitive service. In making such a determination, the board shall develop standards of competitive service which, at a minimum, shall include evidence of ease of market entry; presence of other competitors; and the availability of like or substitute services in the relevant geographic area.

c. The board may determine, by rule, order, or in accordance with the provisions of a plan filed pursuant to subsection a. of section 3 of this act, what reports are necessary to monitor the competitiveness of any telecommunications service.

d. The board shall have the authority to reclassify any telecommunications service that it has previously found to be competitive if, after notice and hearing, it determines that sufficient competition is no longer present, upon application of the criteria set forth in subsection b. of this section. Upon such a reclassification, subsection a. of this section shall no longer apply and the board may determine such rates for that telecommunications service which it finds to be just and reasonable. The board, however, shall continue to monitor the telecommunications service and, whenever the board shall find that the telecommunications service has again become sufficiently competitive pursuant to subsection b. of this section, the board shall again apply the provisions of subsection a. of this section.

e. Notwithstanding the provisions of subsection a. of this section, the following safeguards shall apply to the offering of any competitive service by a local exchange telecommunications company:

(1) the local exchange telecommunications company shall unbundle each noncompetitive service which is incorporated in the competitive service and shall make all such noncompetitive services separately available to any customer under tariffed terms and conditions, including price, that are identical to those used by the local exchange telecommunications company in providing its competitive service;

(2) the rate which a local exchange telecommunications company charges for a competitive service shall exceed the rates charged to

others for any noncompetitive services used by the local exchange telecommunications company to provide the competitive service;

(3) tariffs for competitive services filed with the board shall either be in the public records, or, if the board determines that the rates are proprietary, shall be filed under seal and made available under the terms of an appropriate protective agreement, such as those used in cases before the board; and

(4) nothing in this act shall limit the authority of the board, pursuant to R.S.48:3-1, to ensure that local exchange telecommunications companies do not make or impose unjust preferences, discriminations, or classifications for noncompetitive services.

C.48:2-21.20 Interexchange carrier services deemed competitive, standards.

5. a. For purposes of subsection a. of section 4 of this act, telecommunications services provided by interexchange telecommunications carriers are deemed to be competitive services.

b. Nothing in this act shall affect the board's authority to determine whether and under what terms and conditions it will permit interexchange telecommunications carriers to offer intraLATA services within the State.

c. The board may establish service quality standards for interexchange telecommunications carriers and nothing in this act shall limit the authority of the board to promulgate service quality standards for interexchange telecommunications carriers or to resolve complaints regarding the quality of interexchange telecommunications carrier service.

d. Nothing in the act shall limit the authority of the board to determine whether an interexchange telecommunications carrier should be extended the privilege of operating within this State.

C.48:2-21.21 Rate counsel assessments.

6. Whenever rate counsel represents the public interest pursuant to its statutory authority in the review of the petition and plan filed by a local exchange telecommunications company or an interexchange telecommunications carrier with the board pursuant to the provisions of this act, the Director of the Division of Rate Counsel may assess each participating local exchange telecommunications company or interexchange carrier for reimbursement to the Treasurer of the State of New Jersey pursuant to section 20 of P.L.1974, c.27 (C.52:17E-19).

7. Not later than two years following the effective date of this act, the board shall submit a report to the Governor and the Legislature reviewing the implementation of the provisions of this act, which shall

include, but not be limited to, an evaluation of any alternative form of regulation approved by the board, any plan of such alternative form of regulation and the success of the deregulation of competitive services required and permitted by this act. In its recommendations, the board may also propose any legislative or other changes to the Legislature and the Governor which it deems appropriate.

8. This act shall take effect immediately

Approved January 17, 1992.

CHAPTER 429

AN ACT providing for the accessibility of polling places and voter registration facilities to the elderly and physically disabled, amending various parts of the statutory law, and supplementing chapter 8 of Title 19 of the Revised Statutes and article 2 of chapter 14 of Title 18A of the New Jersey Statutes.

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

C.19:8-3.1 Accessibility of polling places.

1. Each polling place selected by the county board of elections for use in any election shall be accessible to elderly and physically disabled voters unless:

a. the Secretary of State determines that a state of emergency exists that would otherwise interfere with the efficient administration of that election; or

b. the Secretary of State grants a waiver based upon a determination that all potential polling places have been surveyed and no accessible polling place is available, nor is the municipality able to make one temporarily accessible in or near the election district involved.

C.19:8-3.2 Inaccessible polling place; alternate place, means.

2. The Secretary of State shall establish, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to insure that in any election any elderly or physically disabled voter assigned to an inaccessible polling place will, upon advance request of that voter, either be permitted to vote at the alternative, accessible

polling place nearest to that voter's residence which has a common ballot or be provided with a civilian absentee ballot, pursuant to section 4 of P.L.1953, c.211 (C.19:57-4), as an alternative means of casting a ballot on the day of the election.

C.19:8-3.3 Standards of accessibility.

3. The Secretary of State shall use the barrier free sub-code of the State building code to determine the standards of accessibility for polling places.

C.19:8-3.4 Report of inaccessible polling places.

4. No later than May 15th of each year, each county board of elections shall report to the Secretary of State, on the form provided by the Secretary of State, a list of all polling places in the county, specifying any found inaccessible. The county board of elections shall indicate the reasons for inaccessibility, and the efforts made pursuant to this act to locate alternative polling places or to make the existing facilities accessible. Each county board of elections shall notify the Secretary of State of any changes in polling place locations before the next general election, including any changes required due to the alteration of district boundaries.

C.19:8-3.5 Review and compliance.

5. No later than July 1st of each year, the Secretary of State shall review the reports of the county boards of elections and shall ensure that every possible effort has been made to comply with the provisions of this act.

C.19:8-3.6 Report to federal authorities.

6. No later than December 31st of each even-numbered year, the Secretary of State shall report to the Federal Election Commission, in the manner required by the commission, the number of accessible and inaccessible polling places in the State on the date of the preceding general election, and the reasons for the inaccessibility.

7. R.S.19:8-6 is amended to read as follows:

Proper equipment and voter instructions at polling places.

19:8-6. The county boards in counties of the first class and the municipal clerks in counties other than counties of the first class shall purchase or lease and furnish the proper equipment of polling places, to enable the district boards to carry out the duties imposed upon them by this title. The equipment shall consist of tables, chairs, lights, booths and all other things necessary for the performance of such duties, and shall be ready for use by the district

boards in ample time to enable them to perform their duties. Also to be included, for conspicuous display at each polling place on the days of any election during each year, shall be the voting and registration instructions provided by the county board of elections.

The clerks of the several municipalities shall keep in repair, store and deliver the polling booths, ballot boxes and other equipment in time for use by the district boards at the cost and expense of the municipality.

In case of any election to be held in and for a municipality only, the duties imposed upon the county boards in counties of the first class regarding the equipment of polling places shall devolve upon the clerk of the municipality wherein the election is to be held. Any equipment in possession of the county board may be used in a municipal election upon requisition.

8. R.S.19:9-2 is amended to read as follows:

Preparation of information and election supplies.

19:9-2. The Secretary of State shall prepare and distribute on or before April 1 in each year prior to the primary election for the general election and the general election the following information and election supplies: pamphlets of the election laws and instructions; precinct returns; electors of President and Vice-President; United States Senator; member of the House of Representatives; Governor; State Senator; General Assembly and county officers; public questions submitted to the voters of the entire State; self-addressed envelopes, plain and stamped, to each district; returns for the county board of canvassers for the above officers; primary return sheets.

The county board of elections shall prepare and distribute on or before April 1 of each year, registration and voting instructions printed in at least 14-point type for conspicuous display at each polling place at any election.

All other books, ballots, envelopes and other blank forms which the county clerk is required to furnish under any other section of this Title, stationery and supplies for the primary election for the general election, the primary election for delegates and alternates to national conventions and the general election, shall be furnished, prepared and distributed by the clerks of the various counties; except that all books, blank forms, stationery and supplies, articles and equipment which may be deemed necessary to be furnished, used or issued by the county board or superinten-

dent shall be furnished, used or issued, prepared and distributed by such county board or superintendent, as the case may be.

The county board in counties having a superintendent of elections shall furnish and deliver to the county clerk, the municipal clerks and the district boards in municipalities having more than one election district, a map or description of the district lines of their respective election districts, together with the street and house numbers where possible in such election districts. In counties not having a superintendent of elections the municipal clerks shall furnish and deliver such map or description of district lines to the county clerk, the county board and the district board in municipalities having more than one election district.

Nothing in subtitle 2 of the Title, Municipalities and Counties (section 40:16-1 et seq.), shall in anywise be construed to affect, restrict, or abridge the powers conferred on the county clerks, county boards or superintendents by this Title.

9. R.S.19:12-7 is amended to read as follows:

Publication of notice of elections.

19:12-7. a. The county board in each county shall cause to be published in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county, a notice containing the information specified in subsection b. hereof, except for such of the contents as may be omitted pursuant to subsection c. or d. hereof. Such notice shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week next preceding the week in which the primary election is held, once during the 30 days next preceding the day fixed for the closing of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held.

b. Such notice shall set forth:

(1) For the primary election:

(a) That a primary election for making nominations for the general election, for the selection of members of the county committees of each political party, and in each presidential year for the selection of delegates and alternates to national conventions of political parties, will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register; the procedure for the transfer of registration,

and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county, municipal and party offices or positions to be filled, or for which nominations are to be made, at such primary election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(2) For the general election:

(a) That a general election will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register; the procedure for transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county and municipal offices to be filled and, except as provided in section 19:14-33 of this Title as to publication of notice of any Statewide proposition directed by the Legislature to be submitted to the people, the State, county and municipal public questions to be voted upon at such general election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii) the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

c. If such publication is made in more than one newspaper, it shall not be necessary to duplicate in the notice published in each such newspaper all the information required under this section, so long as:

(1) The municipal officers or party positions to be filled, or nominations made, or municipal public questions to be voted upon by the voters of any municipality, shall be set forth in at least one newspaper having general circulation in such municipality;

(2) All offices to be filled, or nominations made therefor, or public questions to be voted upon, by the voters of the entire State or of the entire county shall be set forth in a newspaper or newspapers which, singly or in combination, have general circulation throughout the county;

(3) Information relating to nominations and elections in each Legislative District comprised in whole or part in the county, shall be published in at least a newspaper or newspapers which singly or in combination, have general circulation in every municipality of the county which is comprised in such legislative district.

d. Such part or parts of the original notices as published which pertain to day of registration or primary election which has occurred shall be eliminated from such notice in succeeding insertions.

e. The cost of publishing the notices required by this section shall be paid by the respective counties.

10. R.S.19:31-6 is amended to read as follows:

Registration; place, time, requirements.

19:31-6. Up to and including the 29th day preceding any election the commissioner, in counties having a superintendent of elections, and the members of the county board in all other counties, or a duly authorized clerk or clerks acting for him or it, as the case may be, shall receive the application for registration of all eligible voters who shall personally appear for registration during office hours at the office of the commissioner or the county board, as the case may be, or at such other place or places as may from time to time be designated by him or it for registration.

When any person shall apply to the commissioner in writing setting forth that due to a chronic or incurable illness, or that he is totally incapacitated and he cannot attend a place of registration and such application is accompanied by an affidavit by a physician duly licensed to practice medicine in this State certifying that such person is chronically or incurably ill or totally incapacitated, that such person is mentally competent and that such person cannot attend a place of registration, then the commissioner shall cause such person to be registered at his place of residence or confinement.

A duly authorized clerk is any person that has been appointed by the commissioner or the county board, as the case may be, to accept such registrations.

When the commissioner or county board has designated a place or places other than his office or its office for receiving registrations, he or it, as the case may be, shall cause to be published a notice in a newspaper circulated in the municipality wherein such place or places of registration shall be located. Such notice shall be published pursuant to R.S.19:12-7.

Any eligible voter who applies for registration in person shall subscribe to the following oath or affirmation, viz.:

"You do solemnly swear (or affirm) that you will fully and truly answer such questions as shall be put to you touching your eligibility as a voter under the laws of this State."

Upon being sworn the applicant shall answer such questions as are provided for in the original and duplicate permanent registration forms hereinbefore set forth, and the person receiving the application shall fill out the forms which the applicant shall sign. If an eligible voter is unable to write his name, he shall be required to make a cross, which shall be followed by the writing of the words "his or her mark," as the case may be, by the person receiving the application, and such applicant shall answer the additional questions required under this Title. Such additional questions shall be sworn to or affirmed in the manner above-provided.

Any office designated by the commissioner or the county board for receiving registration forms shall have displayed, in a conspicuous location, registration and voting instructions. These instructions shall be the same as those provided for polling places under R.S.19:9-2 and shall be provided by the commissioner or county board.

C.19:8-3.7 Voting Accessibility Advisory Committee to each county.

11. a. In order to assist and advise county election officers in implementing the provisions of this 1991 amendatory and supplementary act, the county executive in each county in which that office is established, or the governing body of the county in any other county, shall establish a Voting Accessibility Advisory Committee, which shall be consist of at least seven and not more than 11 members as follows:

(1) The four members of the county board of elections; and

(2) Three or more public members, to be appointed by the county executive or county governing body as follows:

(a) A representative of the county executive or a member of the county governing body, as appropriate;

(b) At least one elderly and handicapped individual representing one or more organizations of such individuals;

(c) At least one person trained in the provisions of the barrier free sub-code; and

(d) If the county executive or governing body so elects, any other person deemed able by the executive or governing body to be of assistance in the implementation of the act.

b. In order to accurately evaluate the accessibility of all polling locations, the Voting Accessibility Advisory Committee shall undertake a "walking tour" of each polling location in the county. Any elderly and handicapped committee member should participate in any such tour.

c. On and after January 1, 1994, the continuance in any county of a Voting Accessibility Advisory Committee for that county shall be optional.

12. N.J.S.18A:14-4 is amended to read as follows:

Polling places; accessibility.

18A:14-4. The board shall provide at least one polling place for each school election in a schoolhouse or other convenient public place within the school district and shall provide additional polling districts and places, when and as in this article provided. Such school elections may be held in a schoolhouse of the district located without the territorial boundaries of the district.

The board may select a polling place other than a schoolhouse or public building for a school election, when the location of the schoolhouses and public buildings in the school district is such that inconvenience would be caused the voters of such school district by locating the polling place in a schoolhouse or public building.

Each polling place selected by the board for use in a school election shall be accessible to elderly and physically disabled voters unless:

a. the Secretary of State determines that a state of emergency exists that would otherwise interfere with the efficient administration of that election; or

b. the Secretary of State grants a waiver based upon a determination that all potential polling places have been surveyed and no accessible polling place is available, nor is the board of elections able to make one temporarily accessible in or near the school district involved.

C.18A:14-5.1 Inaccessible polling place; alternate place, means.

13. The Secretary of State shall establish, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to insure that in a school election any elderly or physically disabled voter assigned to an inaccessible polling place will, upon advance request of that voter, either be permitted to vote at the alternative, accessible polling place nearest to that voter's residence or be provided with

a civilian absentee ballot, pursuant to N.J.S.18A:14-27, as an alternative means of casting a ballot on the day of the election.

C.18A:14-5.2 Standards of accessibility.

14. The Secretary of State shall use the barrier free sub-code of the State building code to determine the standards of accessibility for polling places.

C.18A:14-5.3 Report of inaccessible polling places.

15. No later than April 1st of each year, each board of education shall report to the Secretary of State, on the form provided by the Secretary of State, a list of all polling places in the school district, specifying any found inaccessible. The board shall indicate the reasons for inaccessibility, and the efforts made pursuant to this act to locate alternative polling places or to make the existing facilities accessible. Each board of education shall notify the Secretary of State of any changes in polling place locations before the next school election, including any changes required due to the alteration of school district boundaries.

C.18A:14-5.4 Review and compliance.

16. No later than July 1st of each year, the Secretary of State shall review the reports of the boards of education and shall ensure that every possible effort has been made to comply with the provisions of this act.

C.18A:14-5.5 Report to federal authorities.

17. No later than December 31st of each even-numbered year, the Secretary of State shall report to the Federal Election Commission, in the manner required by the commission, the number of accessible and inaccessible polling places in the State on the date of the preceding general election, and the reasons for the inaccessibility.

18. This act shall take effect immediately and shall be applicable to elections occurring on or after the July 1st following enactment, and sections 6 and 17 shall expire on January 1, 1995.

Approved January 18, 1992.

CHAPTER 430

AN ACT concerning optional municipal plans of government and amending P.L.1950, c.210 and P.L.1981, c.465.

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

1. Section 1-12 of P.L.1950, c.210 (C.40:69A-12) is amended to read as follows:

C.40:69A-12 Report and recommendations.

1-12. The charter commission may report and recommend:

(a) That a referendum shall be held to submit to the qualified voters of the municipality the question of adopting one of the plans of government authorized in this act, and such of the alternative provisions as permitted thereunder, to be specified by the commission; or

(b) That the governing body shall petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter commission's report pursuant to Article IV, Section VII, Paragraph 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or

(c) That the form of government of the municipality shall remain unchanged; or

(d) That the charter of the municipality adopted under P.L.1950, c.210 (C.40:69A-1 et seq.) be amended to adopt one of the alternative provisions authorized under the current plan of government of the municipality, in which case a referendum shall be held to submit the question to the qualified voters of the municipality in the same manner as required for an ordinance adopted to that effect pursuant to sections 7 through 11 of P.L.1981, c.465 (40:69A-25.1 through 40:69A-25.5) and sections 17-42 through 17-47 of P.L.1950, c.210 (C.40:69A-191 through 40:69A-196); or

(e) Such other action as it may deem advisable consistent with its functions as set forth in section 1-7 of this article.

2. Section 1-14 of P.L.1950, c.210 (C.40:69A-14) is amended to read as follows:

C.40:69A-14 Form of question submitted to voters.

1-14. The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act, including any of the alternatives contained in this act, shall be submitted in the following form or such part thereof as shall be applicable:

"Shall ..... (insert name of plan) of the Optional Municipal Charter Law, providing for (a division of the municipality into ..... (insert

number) wards, with ..... (insert number) council members (one to be elected from each ward and ..... (insert number) to be elected at large) for ..... (insert "concurrent" or "staggered" terms) at elections held in ..... (insert May or November), with the mayor elected ..... (insert "directly by the voters" or "by the council from among its members"), (insert, if appropriate) with runoff elections to be held thereafter if a sufficient number of candidates fail to attain a majority of votes, be adopted by ..... (insert name of municipality)?".

3. Section 1-25 of P.L.1950, c.210 (C.40:69A-25) is amended to read as follows:

C.40:69A-25 Reversion to prior law.

1-25. Any municipality may, subject to the provisions of section 1-23 of this act, abandon its optional plan and revert to the form of government under which it was governed immediately prior thereto, upon the filing of a petition and referendum as follows:

(a) Upon petition of the registered voters of the municipality signed by the same number thereof as required in section 1-19, for an election to submit the question of abandonment and reversion as herein provided, the municipal clerk shall provide for submission of the question in like manner as provided in section 1-20.

(b) The form of the question shall be as follows:

Shall ..... (Name of municipality) abandon its present form of government and revert to its prior form of government, known as ..... (Popular Name of Plan) as provided by .....(Statutory Reference of Prior Plan).

(c) If a majority of those voting on the question vote in the affirmative the municipality shall revert to its prior form of government as of 12 m. of the fifty-ninth day following the election of officers under the form of government to which the municipality will revert. The first officers under such form of government shall be elected at the next regular municipal or general election, as appropriate to the form of government to which the municipality will revert, occurring not less than 60 days following the referendum. It shall be the duty of the municipal clerk to perform all the duties respecting such election as would be required of a municipal clerk for elections under the form of government to which the municipality will revert. Whenever a municipality has reverted to any form of government other than the commission form of government law (R.S.40:79-1 et seq.), or the municipal

manager form of government (R.S.40:70-1 et seq.), at a later date than the one fixed for the filing of nominating petitions at the primary election, the candidates to be first elected shall be nominated by direct petition in the manner provided by law for nomination, by direct petition for a general election.

Any law to the contrary notwithstanding, persons holding office at the time of a referendum approving reversion shall continue to hold office until the municipality reverts to the previous form of government. Vacancies existing at the holding of the referendum or which occur between the holding of the referendum and the reversion of the municipality to its previous form of government, shall be filled by appointment pursuant to procedures for the filing of vacancies appropriate to the "Optional Municipal Charter Law."

If a majority of those voting on the question vote in the negative, the question of abandonment and reversion shall not again be submitted for five years.

(d) The reversion to a prior form of government shall take effect as provided in sections 17-57 through 17-59 of this act for transition to an optional plan hereunder.

(e) No petition shall be filed nor referendum held pursuant to this section which would provide for the reversion of a municipality to a form of government which it is not currently authorized to adopt by law.

4. Section 8 of P.L.1981, c.465 (C.40:69A-25.2) is amended to read as follows:

Alternative under 40:69A-25.1, transition provisions.

8. a. Whenever any municipality, pursuant to the authority granted in section 7 of this act, shall amend its charter to include an alternative permitted under its plan of government and included in Group B. of subsection b. of section 7 of this act, the terms of all council members, and directly elected mayor if affected, currently serving in the municipality on the date of the election at which the amendment was adopted, and of all affected officers elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of those municipal officers as are required shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the first Monday

in November next following the date of adoption. If the amendment adopted to the charter shall provide for the division of the municipality into wards, or by its terms require an increase or decrease in the number of wards into which the municipality is divided, the ward boundaries required by the amended charter shall be fixed and determined pursuant to law within 90 days of the date of adoption.

If the municipality shall at the same time amend its charter to include an alternative permitted under its plan of government and included in Group A., Group C., Group D. or Group E. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply and the provisions of all amendments shall take effect for the election to be held pursuant to this section.

b. In any municipality which has amended its charter with regard to the holding of elections according to the alternatives set forth in Group A of section 7 of P.L.1981, c.465 (C.40:69A-25.1), where council members are elected for concurrent terms, the first election of council members following the referendum adopting the charter amendment shall take place at the next regular municipal election or general election, as appropriate to the election provisions of the amended charter, which shall occur in the final year of the terms of those council members serving at the time the referendum is adopted. Where council members are elected for staggered terms, except as provided below, each council member serving or elected at the time that the referendum adopting the charter amendment takes place, shall complete the term of office which he is currently serving, or to which he is elected at the time of the referendum. At the regular municipal election or general election, as appropriate to the election provisions of the amended charter, which shall occur in the final year of the term of each member, the office shall be filled according to the election provisions of the amended charter, and the term of the affected council member shall terminate on June 30 or December 31, as appropriate to the election provisions of the amended charter.

5. Section 17-43 of P.L.1950, c.210 (C.40:69A-192) is amended to read as follows:

C.40:69A-192 Timing of election at which submitted to voters.

17-43. a. Any ordinance to be voted on by the voters in accordance with section 17-36 or section 17-42 of this act (C.40:69A-185 or C.40:69A-191) shall be submitted at the next general or regular municipal election occurring not less than 40 days after

the final date for withdrawal of the petition as provided for in section 17-42 of this act (C.40:69A-191), provided that if no such election is to be held within 90 days the council shall provide for a special election to be held not less than 40 nor more than 60 days from the final date for withdrawal of the petition as provided for in section 17-42 (C.40:69A-191) of this act.

b. In the case of an initiated petition signed by not less than 10% nor more than 15% of the legal voters, the ordinance shall be submitted at the next general or regular municipal election occurring not less than 40 days after the final date of withdrawal of the petition as provided for in section 17-42 (C.40:69A-191) of this act.

c. In any instance where a referendum election is to be held as a result of an ordinance of the council which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof, the time for submission of the question to the voters shall be at the next general or regular municipal election occurring not less than 40 days from the date of final passage and approval of the ordinance. Referenda held on ordinances adopted pursuant to sections 7 through 11 of P.L.1981, c.465 (C.40:69A-25.1 through 40:69A-25.5) shall be governed by this subsection, except that if the referendum is held pursuant to those sections as the result of the report of a charter study commission, the time for submission of the question shall be calculated from the date of that report.

6. Section 17-58 of P.L.1950, c.210 (C.40:69A-207) is amended to read as follows:

C.40:69A-207 Offices abolished on effective date of plan; administrative code.

17-58. a. At 12 o'clock noon on the effective date of an optional plan adopted pursuant to this act, all offices then existing in such municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, board of fire commissioners of a township fire district, trustees of the free public library, commissioners of a local housing authority, members of a municipal shade tree commission, board of managers of a municipal hospital, municipal magistrates or of any official or employee now protected by any tenure of office law, or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law. If the municipality is operating under the provisions of Title

11 of the Revised Statutes (Civil Service) at the time of the adoption of an optional plan under this act, nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of said Title 11 as it applies to said officers and employees. If the municipal clerk has, prior to the effective date of the optional plan, acquired a protected tenure of office pursuant to law, he shall become the first municipal clerk under the optional plan.

b. Provision for officers and for the organization and administration of the municipal government under the optional plan may be made by an interim resolution pending the adoption of an administrative code.

c. Within 90 days after the date of organization of the first municipal council elected under the optional plan, the municipal governing body shall adopt, by ordinance, an administrative code organizing the administration of the municipal government, setting forth the duties, responsibilities and powers of all municipal officers, departments and agencies, and establishing the manner of performance thereof.

The code shall restate the major provisions of the municipal charter and the applicable sections of general law, and provide such additional details as are necessary to present a complete guide describing: the municipal offices; how municipal officers are selected; how municipal departments, divisions, boards, commissions, and agencies are organized; lines of supervisory responsibility and accountability; and procedures to be followed to carry out the functions and activities of the municipal government.

d. The administrative code shall take effect 30 days after its adoption. Thereupon, all municipal offices, departments, divisions, boards, commissions, and agencies shall assume the form, perform the duties and responsibilities, and exercise the powers granted under the administrative code in the manner prescribed therein.

e. The administrative code may be amended or supplemented from time to time by ordinance, subject to the provisions of law.

7. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 431

AN ACT concerning urban renewal entities, authorizing municipalities to enter into financial agreements with those entities for redevelopment purposes, authorizing tax exemptions with respect to their projects, supplementing Title 40A of the New Jersey Statutes, and revising or repealing various parts of the statutory law.

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

C.40A:20-1 Short title.

1. This act shall be known and may be cited as the "Long Term Tax Exemption Law."

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....., c..... (C.....) (now pending before the Legislature as Senate Bill No. 380 of 1990) through the use of private entities and financial arrangements pertaining thereto, and that this act should be construed in conjunction with that act.

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 nonoperating 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....., c..... (C.....) (now pending before the Legislature as Senate Bill No. 380 of 1990), 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....., c..... (C.....) (now pending before the Legislature as Senate Bill No. 380 of 1990).

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 of 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.

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....., c..... (C.....) (now pending before the Legislature as Senate Bill No. 380 of 1990) may enter into a financial agreement with an urban renewal entity for the undertaking of a project set forth in the redevelopment plan so adopted 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 and 10 of this act, 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 this act 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 this act.

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.

C.40A:20-5 Urban renewal entities, qualification; provisions.

5. Any duly formed corporation, partnership, limited partnership, limited partnership association, or other unincorporated entity may qualify as an urban renewal entity under this act, if its certificate of incorporation, or other similar certificate or statement as may be required by law, shall contain the following provisions:

a. The name of the entity shall include the words "Urban Renewal."

b. The purpose for which it is formed shall be to operate under this act and to initiate and conduct projects for the redevelopment of a redevelopment area pursuant to a redevelopment plan, or projects necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or part of one or more redevelopment areas, or low and moderate income housing projects, and, when authorized by financial agreement with the municipality, to acquire, plan, develop, construct, alter, maintain or operate housing, senior citizen housing, business, industrial, commercial, administrative, community, health, recreational, educational or welfare projects, or any combination of two or more of these types of improvement in a single project, under such conditions as to use, ownership, management and control as regulated pursuant to this act.

c. A provision that so long as the entity is obligated under financial agreement with a municipality made pursuant to this act, it shall engage in no business other than the ownership, operation and management of the project.

d. A declaration that the entity has been organized to serve a public purpose, that its operations shall be directed toward: (1) the redevelopment of redevelopment areas, the facilitation of the relocation of residents displaced or to be displaced by redevelopment, or the conduct of low and moderate income housing projects; (2) the acquisition, management and operation of a project, redevelopment relocation housing project, or low and moderate income housing project under this act; and (3) that it shall be subject to regulation by the municipality in which its project is situated, and to a limitation or prohibition, as appropriate, on profits or dividends for so long as it remains the owner of a project subject to this act.

e. A provision that the entity shall not voluntarily transfer more than 10% of the ownership of the project or any portion thereof undertaken by it under this act, until it has first removed both itself and the project from all restrictions of this act in the manner required by this act and, if the project includes housing

units, has obtained the consent of the Commissioner of Community Affairs to such transfer; with the exception of transfer to another urban renewal entity, as approved by the municipality in which the project is situated, which other urban renewal entity shall assume all contractual obligations of the transferor entity under the financial agreement with the municipality. The entity shall file annually with the municipal governing body a disclosure of the persons having an ownership interest in the project, and of the extent of the ownership interest of each.

f. A provision stating that the entity is subject to the provisions of section 18 of P.L.1991, c.431 (C.40A:20-18) respecting the powers of the municipality to alleviate financial difficulties of the urban renewal entity or to perform actions on behalf of the entity upon a determination of financial emergency.

g. A provision stating that any housing units constructed or acquired by the entity shall be managed subject to the supervision of, and rules adopted by, the Commissioner of Community Affairs.

If the entity shall not by reason of any other law be required to file a statement or certificate with the Secretary of State, then the entity shall file a certificate in the office of the clerk of the county in which its principal place of business is located setting forth, in addition to the matters listed above, its full name, the name under which it shall do business, its duration, the location of its principal offices, the name of a person or persons upon whom service may be effected, and the name and address and extent of each person having any ownership or proprietary interest therein.

A certificate of incorporation, or similar certificate or statement, shall not be accepted for filing with the Secretary of State or office of the county clerk until the certificate or statement has been reviewed and approved by the Commissioner of the Department of Community Affairs.

C.40A:20-6 Necessary powers of urban renewal entities.

6. Each urban renewal entity qualifying under this act shall have and may exercise such of the powers conferred by law on the form of entity selected as shall be necessary for the operation of the business of the entity and as shall be consistent with the provisions of this act, and shall have and may exercise the powers set forth in this act, but only so long as its financial agreement is in effect with the municipality pursuant to this act.

If an urban renewal entity has, with the consent of the municipality in which its project is located, transferred its project to

another urban renewal entity which has assumed the contractual obligations of the transferor entity with the municipality, the transferor entity shall be discharged from any further obligation under the financial agreement, and shall be qualified to undertake another project with the same or a different municipality.

C.40A:20-7 Additional powers of urban renewal entities.

7. An urban renewal entity shall have the following powers, in addition to those conferred by the law under which the entity is formed:

a. To accept loans or grants from federal, State, county or municipal governments, or from any agency, instrumentality or authority created by one or more of those governments, in aid of the project owned, or to be acquired or undertaken by the entity.

b. To borrow money at such rate of interest as may be limited by the terms of the financial agreement, to mortgage or pledge its property, both real and personal, and to secure the payment of is obligations.

c. To obtain, or aid in obtaining, from the federal or State government any insurance or guarantee or commitment therefor, as to the payment or repayment of interest or principal, or both, or any part thereof, of any loan or other extension of credit, or any instrument evidencing or securing the same, obtained or to be obtained or entered into by it, and to enter into any agreement, contract or other instrument with respect to insurance or guarantee.

C.40A:20-8 Application required, form, contents.

8. Every urban renewal entity qualifying under this act, before proceeding with any projects, shall make written application to the municipality for approval thereof. The application shall be in a form, and shall certify to those facts and data, as shall be required by the municipality, and shall include but not be limited to:

a. A general statement of the nature of the proposed project, that the undertaking conforms to all applicable municipal ordinances, and that the project accords with the redevelopment plan and master plan of the municipality, or, in the case of a redevelopment relocation housing project, provides for the relocation of residents displaced or to be displaced from a redevelopment area, or, in the case of a low and moderate income housing project, the housing units are restricted to occupation by low and moderate income households.

b. A description of the proposed project outlining the area included and a description of each unit thereof if the project is to be undertaken in units and setting forth architectural and site plans as required.

c. A statement prepared by a qualified architect or engineer of the estimated cost of the proposed project in the detail required, including the estimated cost of each unit to be undertaken.

d. The source, method and amount of money to be subscribed through the investment of private capital, setting forth the amount of stock or other securities to be issued therefor or the extent of capital invested and the proprietary or ownership interest obtained in consideration therefor.

e. A fiscal plan for the project outlining a schedule of annual gross revenue, the estimated expenditures for operation and maintenance, payments for interest, amortization of debt and reserves, and payments to the municipality to be made pursuant to a financial agreement to be entered into with the municipality.

f. A proposed financial agreement conforming to the provisions of section 9 of this act.

The application shall be addressed and submitted to the mayor or other chief executive officer of the municipality. The mayor or other chief executive officer shall, within 60 days of his receipt of the application thereafter, submit the application with his recommendations to the municipal governing body. The governing body shall by resolution approve or disapprove the application, but in the event of disapproval, changes may be suggested to secure approval. An application may be revised and resubmitted.

C.40A:20-9 Financial agreement for approved projects, form and contents of contract.

9. Every approved project shall be evidenced by a financial agreement between the municipality and the urban renewal entity. The agreement shall be prepared by the entity and submitted as a separate part of its application for project approval. Any amendments or modifications of the agreement made thereafter shall be by mutual consent of the municipality and the urban renewal entity, and shall be subject to approval by resolution of the municipal governing body upon recommendation of the mayor or other chief executive officer of the municipality prior to taking effect.

The financial agreement shall be in the form of a contract requiring full performance within 30 years from the date of completion of the project, and shall include the following:

a. That the profits of or dividends payable by the urban renewal entity shall be limited according to terms appropriate for the type of entity in conformance with the provisions of this act.

b. That all improvements in the project to be constructed or acquired by the urban renewal entity shall be exempt from taxation as provided in this act.

c. That the urban renewal entity shall make payments for municipal services as provided in this act.

d. That the urban renewal entity shall submit annually, within 90 days after the close of its fiscal year, its auditor's reports to the mayor and governing body of the municipality and to the Director of the Division of Local Government Services in the Department of Community Affairs.

e. That the urban renewal entity shall, upon request, permit inspection of property, equipment, buildings and other facilities of the entity, and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the municipality or the State.

f. That in the event of any dispute between the parties matters in controversy shall be resolved by arbitration in the manner provided in the financial agreement.

g. That operation under the financial agreement shall be terminable by the urban renewal entity in the manner provided by this act.

h. That the urban renewal entity shall at all times prior to the expiration or other termination of the financial agreement remain bound by the provisions of this act.

The financial agreement shall contain detailed representations and covenants by the urban renewal entity as to the manner in which it proposes to use, manage or operate the project. The financial agreement shall further set forth the method for computing gross revenue for the urban renewal entity, the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, the plans for financing the project, including the estimated total project cost, the amortization rate on the total project cost, the source of funds, the interest rates to be paid on the construction financing, the source and amount of paid-in capital, the terms of mortgage amortization or payment of principal on any mortgage, a good faith projection of initial sales prices of any condominium units and expenses to be incurred in promoting and consummating such sales, and the rental schedules and lease terms to be used in the project.

C.40A:20-10 Provisions for transfer or sale.

10. The financial agreement may provide:

a. That the municipality will consent to a sale of the project by the urban renewal entity to another urban renewal entity organized

under this act, their successors, assigns, all owning no other project at the time of the transfer and that, upon assumption by the transferee urban renewal entity of the transferor's obligations under the financial agreement, the tax exemption of the improvement shall continue and inure to the transferee urban renewal entity, its respective successors or assigns.

b. That the municipality will consent to a sale of the project to purchasers of units in the condominium if the project or any portion thereof has been devoted to condominium ownership, and to their successors, assigns, all owning (in the case of housing) no other condominium unit of a project at the time of the transfer, and that, upon assumption by the condominium unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the improvement shall continue and inure to the unit purchaser, his respective successors or assigns.

C.40A:20-11 Municipal determinations as to tax exemptions and service charges.

11. A financial agreement approved pursuant to this act shall include findings by the municipality, approved by the municipal governing body, setting forth appropriate tax exemption provisions and an appropriate annual service charge schedule which shall be based upon the provisions of section 12 of this act and the municipality's determinations as to:

a. The relative benefits of the project to the redevelopment of the redevelopment area when compared to the costs, if any, associated with the tax exemption;

b. An assessment of the importance of the tax exemption to be granted in obtaining the development of the project and in influencing the locational decisions of probable occupants of the project or units of the project.

C.40A:20-12 Tax exemption, duration; annual service charges.

12. The rehabilitation or improvements made in the development or redevelopment of a redevelopment area or area appurtenant thereto or for a redevelopment relocation housing project, pursuant to this act, shall be exempt from taxation for a limited period as hereinafter provided. The exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions, and no such claim shall be allowed unless the municipality wherein the property is situated shall certify that a financial agreement with an urban renewal entity for the development or the redevelopment of the property, or the provision of a redevelopment relocation housing project, or the

provision of a low and moderate income housing project has been entered into and is in effect as required by this act. Whenever an exemption status changes during a tax year, the procedure for the apportionment of the taxes for the year shall be the same as in the case of other changes in tax exemption status during the tax year.

a. The duration of the exemption for urban renewal entities shall be as follows: for all projects, a term of not more than 30 years from the completion of the entire project, or unit of the project if the project is undertaken in units, or not more than 35 years from the execution of the financial agreement between the municipality and the urban renewal entity.

b. During the term of any exemption, in lieu of any taxes to be paid on the improvements of the project, the urban renewal entity shall make payment to the municipality of an annual service charge. The annual service charge for municipal services supplied to the project to be paid by the urban renewal entity for any period of exemption, shall be determined as follows:

(1) An annual amount equal to a percentage determined pursuant to this subsection and section 11 of this act, of the annual gross revenue from each unit of the project, if the project is undertaken in units, or from the total project, if the project is not undertaken in units. The percentage of the annual gross revenue shall not be more than 15% in the case of a low and moderate income housing project, nor less than 10% in the case of offices, nor less than 15% in the case of all other projects.

At the option of the municipality, or where because of the nature of the development, ownership, use or occupancy of the project or any unit thereof, if the project is to be undertaken in units, the total annual gross rental or gross shelter rent or annual gross revenue cannot be reasonably ascertained, the governing body shall provide in the financial agreement that the annual service charge shall be a sum equal to a percentage determined pursuant to this subsection and section 11 of this act, of the total project cost or total project unit cost determined pursuant to this act calculated from the first day of the month following the substantial completion of the project or any unit thereof, if the project is undertaken in units. The percentage of the total project cost or total project unit cost shall not be more than 2% in the case of a low and moderate income housing project, and shall be 2% in the case of all other projects.

(2) In either case, the financial agreement shall establish a schedule of annual service charges to be paid over the term of the exemption period, which shall be in stages as follow:

(a) For the first stage of the exemption period, which shall commence with the date of completion of the unit or of the project, as the case may be, and continue for a time of not less than six years nor more than 15 years, as specified in the financial agreement, the urban renewal entity shall pay the municipality an annual service charge for municipal services supplied to the project in an annual amount equal to the amount determined pursuant to paragraph (1) of this subsection and section 11 of this act. For the remainder of the period of the exemption, if any, the annual service charge shall be determined as follows:

(b) For the second stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of this act, or 20% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(c) For the third stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of this act, or 40% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(d) For the fourth stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of this act, or 60% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater; and

(e) For the final stage of the exemption period, the duration of which shall not be less than one year and shall be specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of this act, or 80% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater.

If the financial agreement provides for an exemption period of less than 30 years from the completion of the entire project, or less than 35 years from the execution of the financial agreement, the financial agreement shall set forth a schedule of annual service

charges for the exemption period which shall be based upon the minimum service charges and staged adjustments set forth in this section.

The annual service charge shall be paid to the municipality on a quarterly basis in a manner consistent with the municipality's tax collection schedule.

Against the annual service charge the urban renewal entity shall be entitled to credit for the amount, without interest, of the real estate taxes on land paid by it in the last four preceding quarterly installments.

Notwithstanding the provisions of this section or of the financial agreement, the minimum annual service charge shall be the amount of the total taxes levied against all real property in the area covered by the project in the last full tax year in which the area was subject to taxation, and the minimum annual service charge shall be paid in each year in which the annual service charge calculated pursuant to this section or the financial agreement would be less than the minimum annual service charge.

c. All exemptions granted pursuant to the provisions of this act shall terminate at the time prescribed in the financial agreement.

Upon the termination of the exemption granted pursuant to the provisions of this act, the project, all affected parcels, and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the urban renewal entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

C.40A:20-13 Termination of tax exemption.

13. The tax exemption provided in this act shall apply only so long as the urban renewal entity and its project remain subject to the provisions of this act, but in no event more than 35 years from the date of the execution of the financial agreement. An urban renewal entity may at any time after the expiration of one year from the completion date of the project, notify the governing body of the municipality that, as of a certain date designated in the notice, it relinquishes its status under this act, and if the project includes housing units, that the urban renewal entity has obtained the consent of the Commissioner of Community Affairs to such a relinquishment. As of that date, the tax exemption, the service charges, and the profit and dividend restrictions shall terminate. The date of termination of tax exemption, whether by relinquishment by the entity or by terms of the financial agreement, shall be deemed the close of the fiscal year of the entity.

within 90 days of that date, the urban renewal entity shall pay to the municipality the amount of reserve, if any maintained pursuant to section 15 or 16 of this act, as well as the excess net profits, if any, payable as of that date.

C.40A:20-14 Conveyed condominium units, tax exemption, conditions.

14. If the financial agreement permits the conveyance of condominium units pursuant to subsection b. of section 10 of this act, the provisions of this section shall apply.

When the urban renewal entity files a master deed pursuant to P.L.1969, c.257 (C.46:8B-1 et seq.) creating a condominium, whether residential, commercial, or industrial, as to all or a portion of a project which has been approved for tax exemption under the financial agreement, each unit of the condominium, whether owned by the urban renewal entity or a successor unit purchaser, shall continue to be subject to the provisions of the financial agreement, and the tax exemption previously approved under the financial agreement with respect to property converted to condominium ownership shall be unaffected by the recording of the master deed or any subsequent deed conveying the condominium unit and its appurtenant interest in common elements. In the case of residential condominium units, the municipal governing body may, by resolution, require either the lapse of the tax exemption for any period during which the owner of a unit does not personally reside therein and the unit is occupied by somebody else or an increase in the annual service charge paid in lieu of taxes by a condominium unit owner who does not reside within the unit by a specified percentage over that otherwise applicable. A tax exemption shall continue as to the condominium unit and its appurtenant undivided interest in the common elements subject to all of the following:

a. For the purpose of determining the annual service charge pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12), when used with respect to a condominium project, "annual gross revenue" means the amount equal to the annual aggregate constant payments to principal and interest, assuming a purchase money mortgage encumbering the condominium unit to have been in an original amount equal to the initial value of the unit with its appurtenant interest in the common elements as stated in the master deed, if unsold by the urban renewal entity, or, if the unit is held by a unit purchaser, from time to time, the most recent true consideration paid for a deed to the condominium unit in a bona fide arm's length sale transaction, but not less than the initial

assessed valuation of the condominium unit assessed at 100% of true value, plus the total amount of common expenses charged to the unit pursuant to the bylaws of the condominium association. The constant payments to principal and interest shall be calculated by assuming a loan amount as stated above at the prevailing lawful interest rate for mortgage financing or comparable properties within the municipality as of the date of the recording of the unit deed, for a term equal to the full term of the exemption from taxation stipulated in the financial agreement.

b. There is expressly excluded from calculation of gross revenue and from net profit as set forth in subsections a. and c. of section 3 of P.L.1991, c.431 (C.40A:20-3) for the purpose of determining compliance with sections 15 or 16 of P.L.1991, c.431 (C.40A:20-15 or 40A:20-16), any gain realized by the urban renewal entity on the sale of any condominium unit, whether or not taxable under federal or State law.

c. The conveyance of a condominium unit which is authorized under the financial agreement to a bona fide unit purchaser grantee shall not require consent or approval of the municipality, and the grantee shall acquire title to the unit subject to the requirement for payment of the annual service charge and other provisions of the financial agreement expressly applicable to condominium unit purchasers, and the exemption from taxation as to the condominium unit shall continue unaffected by the transfer, subject, in an instance of housing, to the provisions of any municipal resolution adopted pursuant to this section.

d. For a multi-occupant commercial or industrial building operated as a condominium or sold by three dimensional conveyances, but developed, sold, managed or operated by an urban renewal entity, the building and its occupants' space shall qualify as tax exempt under this section if the financial agreement which authorizes conveyances of units, assigns proportionate interests in the tax exempt property. The condominium or three dimensional purchasers of units shall not be required to be urban renewal entities.

C.40A:20-15 Excess profits of a limited dividend entity.

15. An urban renewal entity which is a limited dividend entity under this act shall be subject, during the period of the financial agreement and tax exemption under this act, to a limitation of its profits and in addition, in the case of a corporation, of the dividends payable by it. Whenever the net profits of the entity for the period, taken as one accounting period, commencing on the date on

which the construction of the first unit of the project is completed, or on which the project is completed if the project is not undertaken in units, and terminating at the end of the last full fiscal year, shall exceed the allowable net profits for the period, the entity shall, within 90 days of the close of that fiscal year, pay the excess net profits to the municipality as an additional service charge.

The entity may maintain during the term of the financial agreement a reserve against vacancies, unpaid rentals and contingencies in an amount established in the financial agreement not to exceed 10% of the gross revenues of the entity for the last full fiscal year, and may retain such part of those excess net profits as is necessary to eliminate a deficiency in that reserve. Upon the termination of the financial agreement, the amount of reserve, if any, shall be paid to the municipality.

No entity shall make any distribution of profits, or pay or declare any dividend or other distribution on any shares of any class of its stock, unless, after giving effect thereto, the allowable net profit for the period as determined above and preceding the date of the proposed dividend or distribution would equal or exceed the aggregate amount of all dividends and other distributions paid or declared on any shares of its stock since its incorporation or establishment.

If an entity purchases an existing project from another urban renewal entity, the purchasing entity shall compute its allowable net profits, and, for the purpose of dividend payments, shall commence with the date of acquisition of the project. The date of transfer of title of the project to the purchasing entity shall be considered to be the close of the fiscal year of the selling entity. Within 90 days after that date of the transfer of title, the selling entity shall pay to the municipality the amount of reserve, if any, maintained by it pursuant to this section, as well as the excess net profit, if any, payable pursuant to this section.

C.40A:20-16 Net profits of a nonprofit entity.

16. An urban renewal entity which is a nonprofit entity under this act shall be subject, during the period of the financial agreement and tax exemption under this act, to a requirement that it shall pay over its net profits, if any, to the municipality within 90 days after the close of its fiscal year.

The entity may maintain during the term of the financial agreement a reserve against vacancies, unpaid rentals and contingencies in an amount established in the financial agreement

not to exceed 10% of the gross revenues of the entity for the last full fiscal year, and may retain such part of those net profits as is necessary to eliminate a deficiency in that reserve. Upon the termination of the financial agreement, the amount of reserve, if any, shall be paid to the municipality.

If an entity purchases an existing project from another urban renewal entity, the purchasing entity shall compute its net profits, if any, commencing with the date of acquisition of the project. The date of transfer of title of the project to the purchasing entity shall be considered to be the close of the fiscal year of the selling entity. Within 90 days after the date of the transfer of title, the selling entity shall pay to the municipality the amount of reserve, if any, maintained by it pursuant to this section, as well as the excess net profit, if any, payable pursuant to this section.

C.40A:20-17 Sale of land to an urban renewal entity.

17. The municipality or any redevelopment entity, authority or other instrumentality thereof, is authorized, by resolution, to make any land owned by it available for use for a project by an urban renewal entity, by private sale, at such prices and upon such terms and conditions as shall be agreed upon by the municipal governing body, redevelopment entity, authority or instrumentality and the urban renewal entity.

C.40:20-18 Housing project in financial difficulty, financial plan.

18. a. If the Local Finance Board has reason to believe that an urban renewal entity which owns a housing project is faced with financial difficulty, the chairman of the Local Finance Board shall summon an appropriate official of the entity to a hearing before the board. The board may require the production of papers, documents, witnesses or information, and may make or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called.

b. If the chairman of the Local Finance Board shall determine that, as a result of mismanagement, mortgage foreclosure, or other fiscal, legal or managerial conduct, a financial emergency exists which requires the municipality to protect the health, safety or welfare of the residents of the housing project, the Local Finance Board shall order the implementation of a financial plan which will ensure the protection of the residents of the housing project. The order shall be deemed conclusive and final, and upon receipt of the order all persons shall be estopped from contesting

the order or the provisions thereof, and the urban renewal entity affected thereby shall take action to comply with the order.

c. A financial plan ordered pursuant to this section may stipulate the legal, fiscal, operational or managerial actions to be taken by the entity to correct the circumstances, and may require that the appropriate officer or agency of the Department of Community Affairs shall perform those actions on behalf of the entity or otherwise arrange for performance of those actions. The financial plan may require within the limitations imposed by this act, modifications of the financial agreement entered into with the urban renewal entity by the municipality, notwithstanding the lack of consent by the urban renewal entity to those modifications, if the modifications are approved by the municipal governing body.

C.40A:20-19 Construction of act in place of repealed statutory entities.

19. Whenever in any law, the term "urban renewal corporation," "urban renewal association," "nonprofit urban renewal corporation," "limited dividend housing corporation," "limited dividend housing association," "nonprofit housing corporation," "senior citizen nonprofit housing corporation," or similar entity for which the authorizing statute is repealed by this act, appears, that term shall be deemed to refer to an "urban renewal entity" established under this act, and the law in which the term occurs shall be construed with respect to, and in a manner consistent with, this act.

Repealer.

20. a. The following are repealed:

P.L.1961, c.40 (C.40:55C-40 et seq.)
P.L.1983, c.139 (C.40:55C-41.1 et al.)
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, s.4 (C.40:55C-58.2)
P.L.1965, c.95 (C.40:55C-77 et seq.)
P.L.1944, c.169 (C.55:14D-1 et seq.)
P.L.1950, c.107 (C.55:14D-6.1)
P.L.1946, c.52 (C.55:14E-1 et seq.)
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 seq.)
P.L.1949, c.184 (C.55:16-1 et seq.)
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 this act 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 this act. The provisions of section 17 of this act 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 this act. 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 this act shall be pursuant to this act.

C.40A:20-20 Rules.

21. The Commissioner of Community Affairs and the Local Finance Board shall have the authority to adopt such administrative rules as may be necessary to implement this act.

22. This act shall take effect 90 days following enactment, but any regulations which are necessary to effectuate its provisions may be adopted and issued, and any other administrative preparations necessary or expedient to its timely implementation may be undertaken, immediately.

Approved January 18, 1992.

CHAPTER 432

AN ACT concerning interception of certain messages, supplementing Title 2C of the New Jersey Statutes and repealing P.L.1977, c.426.

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

C.2C:33-21 Interception or use of official communications.

1. Any person who intercepts any message or transmission made on or over any police, fire or emergency medical communi-

cations system, or any person who is the recipient of information so intercepted, and who uses the information obtained thereby to facilitate the commission of or the attempt to commit a crime or a violation of any law of this State, or uses the same in a manner which interferes with the discharge of police operations, shall be guilty of a crime of the fourth degree.

C.2C:33-22 Possession of emergency communications receiver.

2. Any person who, while in the course of committing or attempting to commit a crime, including the immediate flight therefrom, possesses or controls a radio capable of receiving any message or transmission made on or over any police, fire or emergency medical communications system, shall be guilty of a crime of the fourth degree.

C.2C:33-23 Radar device not included.

3. For purposes of P.L.1991, c.432 (C.2C:33-21 et seq.), the term "police, fire or emergency medical communications system" shall not include radar devices used to monitor vehicular speed.

Repealer.

4. P.L.1977, c.426 (C.2A:127-4) is repealed.

5. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 433

AN ACT requiring the reporting of certain burn injuries, amending N.J.S.2C:58-8, supplementing P.L.1983, c.382 (C.52:27D-25a et seq.) and Title 53 of the Revised Statutes.

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

1. N.J.S.2C:58-8 is amended to read as follows:

Certain wounds and injuries to be reported.

2C:58-8. Certain Wounds and Injuries to be Reported. a. Every case of a wound, burn or any other injury arising from or caused by a firearm, destructive device, explosive or weapon shall be reported at once to the police authorities of the municipality where the person reporting is located or to the State Police by the

physician consulted, attending or treating the case or the manager, superintendent or other person in charge, whenever such case is presented for treatment or treated in a hospital, sanitarium or other institution. This subsection shall not, however, apply to wounds, burns or injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

b. Every case which contains the criteria defined in this subsection shall be reported at once to the police authorities of the municipality where the person reporting is located, or to the Division of State Police, by the physician consulted, attending, or treating the injury, or by the manager, superintendent, or other person in charge, whenever such case is presented for treatment or treated in a hospital, sanitarium or any other institution, facility, or office where medical care is provided. This subsection shall not apply to injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

The defined criteria shall consist of a flame burn injury accompanied by one or more of the following factors:

(1) A fire accelerant was used in the incident causing the injury and the presence of an accelerant creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.

(2) Treatment for the injury was sought after an unreasonable delay of time.

(3) Changes or discrepancies in the account of the patient or accompanying person concerning the cause of the injury which creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.

(4) Voluntary statement by the patient or accompanying person that the patient was injured during the commission of arson in violation of N.J.S.2C:17-1.

(5) Voluntary statement by the patient or accompanying person that the patient was injured during a suicide attempt or the commission of criminal homicide in violation of N.J.S.2C:11-1.

(6) Voluntary statement by the patient or accompanying person that the patient has exhibited fire setting behavior prior to the injury or has received counseling for such behavior.

(7) Any other factor determined by the bureau of fire safety in the Department of Community Affairs from information in the burn patient arson registry established under section 4 of P.L.1991, c.433 (C.52:27D-25d3) to typify a patient whose injuries were caused during the commission of arson in violation of N.J.S.2C:17-1.

C.2A:62A-18 Reports of suspected arson related burn injuries, immunity.

2. A person acting in accordance with the requirements of this act in making a report required by subsection b. of N.J.S.2C:58-8 shall be immune from any civil liability that might otherwise be incurred or imposed. The person shall also be immune from civil liability for testimony given in any judicial proceeding resulting from or concerning such a report.

C.52:27D-25d5 Information in registry, protected.

3. The disclosure of information from the burn patient arson registry from which a patient may be identified shall be prohibited, except for disclosures to law enforcement officers for the purposes of investigations during the course of their official duties.

C.52:27D-25d3 Burn patient arson registry, establishment; review.

4. a. In consultation with the Commissioner of Health and the Superintendent of the Division of State Police in the Department of Law and Public Safety, the bureau of fire safety in the Department of Community Affairs shall establish and maintain a burn patient arson registry which shall contain the information from reports submitted pursuant to subsection b. of N.J.S.2C:58-8 and any other information deemed necessary by the director of the bureau to assist in the prevention and prosecution of the crime of arson and to provide an information source for arson research and analysis.

b. The director of the bureau of fire safety in the Department of Community Affairs, the Superintendent of the Division of State Police in the Department of Law and Public Safety, the Commissioner of Health, two physicians or surgeons specializing in burn injuries from Saint Barnabas Burn Foundation appointed by the director of the foundation, and two physicians or surgeons specializing in burn injuries from the Burn Foundation of Philadelphia appointed by the director of the foundation shall meet at least once during every six month period. The group shall meet to discuss the status and operation of the burn patient arson registry and the quality of the information accumulated in the registry; assess the level of compliance with subsection b. of N.J.S.2C:58-8; identify additional factors for inclusion in paragraph (7) of subsection b. of N.J.S.2C:58-8; and make recommendations for change in the operation of the registry.

C.52:27D-25d4 Rules, regulations, toll free hotline, report forms.

5. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the Commissioner of the Department of Community Affairs shall adopt rules and regulations necessary

to effectuate the purposes of this act including, but not limited to, the transfer of information from the 24-hour toll free arson hotline established and maintained pursuant to section 6 of P.L.1991, c.433 (C.53:2-7), procedures for the submission of reports required under subsection b. of N.J.S.2C:58-8, the transmission of all reports to the bureau of fire safety in the Department of Community Affairs, and procedures for notifying the appropriate enforcement agency, if necessary, to facilitate an arson investigation.

The form to be used for written reports submitted pursuant to subsection b. of N.J.S.2C:58-8 shall be developed in consultation with the Department of Health, the Superintendent of the Division of State Police and the physicians or surgeons of Saint Barnabas Burn Foundation and the Burn Foundation of Philadelphia appointed for the purposes of subsection b. of section 4 of P.L.1991, c.433 (C.52:27D-25d3).

C.53:2-7 Toll free arson hotline.

6. The Division of State Police in the Department of Law and Public Safety shall establish a 24-hour toll free arson hotline for the submission of reports required under subsection b. of N.J.S.2C:58-8.

7. This act shall take effect on the 90th day following enactment.

Approved January 18, 1992.

CHAPTER 434

AN ACT concerning the withholding and depositing of payments, and the methods of depositing those payments, on certain local public contracts and amending P.L.1979, c.152 and P.L.1979, c.464.

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

1. Section 1 of P.L.1979, c.152 (C.40A:11-16.1) is amended to read as follows:

C.40A:11-16.1 $100,000 contracts for improvements to real property; retainage, security.

1. Whenever any contract, the total price of which exceeds $100,000.00, entered into by a contracting unit, for the construction, reconstruction, alteration or repair of any building, structure,

facility or other improvement to real property, requires the withholding of payment of a percentage of the amount of the contract, the contractor may agree to the withholding of payments in the manner prescribed in the contract, or may deposit with the contracting unit registered book bonds, entry municipal bonds, State bonds or other appropriate bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be withheld pursuant to the terms of the contract. The nature and amount of the bonds or notes to be deposited shall be subject to approval by the contracting unit. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

If the contractor agrees to the withholding of payments, the amount withheld shall be deposited, with a banking institution or savings and loan association insured by an agency of the federal government, in an account bearing interest at the rate currently paid by such institutions or associations on time or savings deposits. The amount withheld, or the bonds or notes deposited, and any interest accruing on such bonds or notes, shall be returned to the contractor upon fulfillment of the terms of the contract relating to such withholding. Any interest accruing on cash payments withheld shall be credited to the contracting unit.

2. Section 2 of P.L.1979, c.464 (C.40A:11-16.3) is amended to read as follows:

C.40A:11-16.3 Retainage from partial payments; final payment after acceptance; maintenance bond.

2. a. With respect to any contract or agreement entered into by a contracting unit pursuant to section 1 of this act for which the contractor shall agree to the withholding of payments pursuant to P.L.1979, c.152 (C.40A:11-16.1), 2% of the amount due on each partial payment shall be withheld by the contracting unit pending completion of the contract or agreement.

b. Upon acceptance of the work performed pursuant to the contract or agreement for which the contractor has agreed to the withholding of payments pursuant to subsection a. of this section, all amounts being withheld by the contracting unit shall be released and paid in full to the contractor within 45 days of the final acceptance date agreed upon by the contractor and the contracting unit, without further withholding of any amounts for any purpose whatsoever, provided that the contract has been completed as indicated. If the contracting unit requires main-

tenance security after acceptance of the work performed pursuant to the contract or agreement, such security shall be obtained in the form of a maintenance bond. The maintenance bond shall be no longer than two years and shall be no more than 100% of the project costs.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 435

AN ACT establishing the Millicent Fenwick Research Professorship at Monmouth College and supplementing Title 18A of the New Jersey Statutes.

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

C.18A:72L-1 Millicent Fenwick Research Professorship in Education and Public Issues.

1. There is established at Monmouth College a distinguished professorship which shall be known as the Millicent Fenwick Research Professorship in Education and Public Issues.

C.18A:72L-2 Monmouth College to select professors.

2. Monmouth College shall select the individuals to fill the professorship for such periods of time and upon such terms and conditions as may be agreed upon, subject to the approval of the Chancellor of Higher Education and available appropriations. The incumbent of the research professorship shall devote his or her time to teaching, action research, educational policy analysis, program development and public service.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 436

AN ACT concerning the possession of weapons in certain cases and amending P.L.1979, c.179.

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

1. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read as follows:

C.2C:39-7 Certain persons not to have weapons.

6. Certain Persons Not to Have Weapons. Any person, having been convicted in this State or elsewhere of the crime of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, or sexual assault, whether or not armed with or having in his possession any weapon enumerated in section 2C:39-1r., or any person convicted of a crime pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in New Jersey or other satisfactory proof that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm, or any person who has been convicted of other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2 who purchases, owns, possesses or controls any of the said weapons is guilty of a crime of the fourth degree.

Whenever any person shall have been convicted in another state, territory, commonwealth or other jurisdiction of the United States, or any country in the world, in a court of competent jurisdiction, of a crime which in said other jurisdiction or country is comparable to one of the crimes enumerated above, then that person shall be subject to the provisions of this section.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 437

AN ACT concerning handcuffs, amending N.J.S.2C:39-3 and supplementing chapter 39 of Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:39-3 is amended to read as follows:

Prohibited weapons and devices.

2C:39-3. Prohibited Weapons and Devices.

a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.

c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.

d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm, is guilty of a crime of the fourth degree.

e. Certain weapons. Any person who knowingly has in his possession any gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus or similar leather band studded with metal filings or razor blades imbedded in wood, ballistic knife, without any explainable lawful purpose, is guilty of a crime of the fourth degree.

f. Dum-dum or body armor penetrating bullets. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to subsection f. of N.J.S.2C:39-6, who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco and Firearms, who knowingly has in his possession any body armor breaching or penetrating ammunition, which means: (a) ammunition primarily designed for use in a handgun, and (b) which is comprised of a bullet whose core or jacket, if the jacket is thicker than .025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and (c) is therefore capable of breaching or penetrating body armor, is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1) Nothing in subsection a., b., c., d., e., f., j. or k. of this section shall apply to any member of the Armed Forces of the United States or the National Guard, or except as otherwise provided, to any law enforcement officer while actually on duty or traveling to or from an authorized place of duty, provided that his possession of the prohibited weapon or device has been duly authorized under the applicable laws, regulations or military or law enforcement orders. Nothing in subsection h. of this section shall apply to any law enforcement officer who is exempted from the provisions of that subsection by the Attorney General. Nothing in this section shall apply to the possession of any weapon or device by a law enforcement officer who has confiscated, seized or otherwise taken possession of said weapon or device as evidence of the commission of a crime or because he believed it to be possessed illegally by the person from whom it was taken, provided that said law enforcement officer promptly notifies his superiors of his possession of such prohibited weapon or device.

(2) Nothing in subsection f. (1) shall be construed to prevent a person from keeping such ammunition at his dwelling, premises or other land owned or possessed by him, or from carrying such ammunition from the place of purchase to said dwelling or land, nor shall subsection f. (1) be construed to prevent any licensed retail or wholesale firearms dealer from possessing such ammunition at its licensed premises, provided that the seller of any such ammunition shall maintain a record of the name, age and place of residence of any purchaser who is not a licensed dealer, together with the date of sale and quantity of ammunition sold.

(3) Nothing in paragraph (2) of subsection f. or in subsection j. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition or large capacity ammunition magazine at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the chief of police or highest ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

(4) Nothing in subsection a. of this section shall be construed to apply to antique cannons as exempted in subsection d. of N.J.S.2C:39-6.

h. Stun guns. Any person who knowingly has in his possession any stun gun is guilty of a crime of the fourth degree.

i. Nothing in subsection e. of this section shall be construed to prevent any guard in the employ of a private security company, who is licensed to carry a firearm, from the possession of a nightstick when in the actual performance of his official duties, provided that he has satisfactorily completed a training course approved by the Police Training Commission in the use of a nightstick.

j. Any person who knowingly has in his possession a large capacity ammunition magazine is guilty of a crime of the fourth degree unless the person has registered an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the magazine is maintained and used in connection with participation in competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the United States Department of the Army.

k. Handcuffs. Any person who knowingly has in his possession handcuffs as defined in P.L.1991, c.437 (C.2C:39-9.2), under circumstances not manifestly appropriate for such lawful uses as handcuffs may have, is guilty of a disorderly persons offense. A law enforcement officer shall confiscate handcuffs possessed in violation of the law.

C.2C:39-9.2 Sale of handcuffs to minors, prohibited.

2. A person who sells handcuffs to a person under 18 years of age is guilty of a disorderly persons offense. A law enforcement officer shall confiscate handcuffs sold in violation of the law. As used in this section, "handcuffs" mean a device, conventionally used for law enforcement purposes, that can be tightened and locked about the wrists for the purpose of restraining a person's movement.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 438

AN ACT appropriating funds from the Correctional Facilities Construction Fund of 1987 for county assistance for certain correctional facilities.

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

1. a. 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 $7,152,000 for the following purpose:

DEPARTMENT OF CORRECTIONS

County Assistance	$7,152,000
Salem County 32 beds	$7,152,000
Total Appropriation	$7,152,000

b. The Commissioner of the Department of Corrections is authorized to negotiate and enter into an agreement with the appropriate county officials regarding the terms and conditions upon which the county assistance shall be made. At a minimum, however, the terms and conditions shall include:

(1) The availability and use of a specific number of beds to be reserved for prisoners remanded by the State; and

(2) Per diem rates favorable to the State in recognition of its contribution to the construction costs of the facility.

2. 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.

3. In order to provide flexibility in administering the provisions of this act, the Commissioner of the Department of Corrections may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer a part of any item to any other item within the respective department accounts in the Correctional Facilities Construction Fund. The transfers shall be made in a manner consistent with section 29 of P.L.1987, c.178.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 439

AN ACT concerning notice requirements for the filing of complaints for rollback tax assessments and amending P.L.1947, c.413.

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

1. Section 2 of P.L.1947, c.413 (C.54:4-63.13) is amended to read as follows:

C.54:4-63.13 Complaints of omitted property; procedure.

2. On the written complaint of the tax assessor, the collector of taxes, or any taxpayer, of the taxing district, or of the governing body thereof, or upon a resolution by the county board of taxation, of its own motion, the county board of taxation shall hear the matter. Any such complaint or motion shall specify the property alleged to have been omitted and the particular year of the assessment. At least 15 days' notice in writing shall be given to the owner of the property of the time and place of the hearing and the notice shall specify the property alleged to have been omitted and the particular year of the assessment. The notice may be served by certified mail. The collector shall present such complaints and serve such notices as the governing body may direct and shall attend before the county board of taxation and subpoena proper witnesses and pay their fees. He shall receive reimbursement therefor and two dollars ($2.00) for every day he shall attend for his services from the taxing district. When the tax assessor files a complaint, the tax board shall send a notice of the complaint to the tax collector.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 440

AN ACT concerning the responsibility of counties for judicial salaries in certain cases and amending N.J.S.2B:2-5.

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

1. N.J.S.2B:2-5 is amended to read as follows:

Responsibility for judicial salaries.

2B:2-5. Responsibility for Judicial Salaries. The State shall be responsible for the cost of the salaries of the justices of the Supreme Court, judges of the Superior Court and judges of the Tax Court.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 441

AN ACT concerning the abatement or exemption of taxes in certain cases, supplementing Title 40A of the New Jersey Statutes, and repealing P.L.1975, c.104, P.L.1977, c.12, P.L.1977, c.284 and P.L.1979, c.233.

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

C.40A:21-1 Short title.

1. This act shall be known and may be cited as the "Five-Year Exemption and Abatement Law."

C.40A:21-2 Findings, purpose.

2. The Legislature finds that the various statutes authorized by Article VIII, Section I, paragraph 6 of the New Jersey Constitution permitting municipalities to grant for periods of five years exemptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of residential and commercial and industrial structures in areas threatened with economic and social decline. There exists, however, a need to consolidate and make more coherent the most useful features of those various statutes in order to promote the most effective and coordinated use of the various authorizations afforded to municipalities and to include in-fill construction in a comprehensive strategy of rehabilitation of these areas by permitting exemptions and abatements for construction of new single family and multiple dwellings. It is the purpose of this act to permit municipalities the greatest flexibility possible within the constitutional limitations to address problems of deterioration and decay

while preserving the salient features of the existing tax exemption and abatement programs.

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....., c..... (C.....) (now pending before the Legislature as Senate Bill No. 380 of 1990), 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.

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

4. a. 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 this act. 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.

b. When the governing body of a municipality has determined that, apart from existence of any area in the municipality that has been or could be formally declared blighted or in need of rehabilitation, there are trends toward deterioration that, unless countered by such incentives, will inexorably tend toward such conditions within the municipality, it may adopt an ordinance setting forth the reasons for its determination and providing for the granting of exemptions, or of exemptions and abatements, either throughout the municipality or in designated residential neighborhoods, in the same manner and to the same extent as if the municipality's neighborhoods had been determined to be in need of rehabilitation pursuant to the procedure set forth in subsection a. of this section.

c. 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 this act, 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.

C.40A:21-5 Limits on exemptions on abatements for dwellings.

5. a. If the ordinance adopted pursuant to this act shall provide for the exemption from taxation of improvements to dwellings, it shall require that, in determining the value of real property, the municipality shall regard the first $5,000 or $15,000 or $25,000, as the ordinance shall specify, in assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than 20 years old, as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless an abatement is granted pursuant to subsection b. of this section, or there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

b. An ordinance providing for exemptions for improvements to dwellings may also provide for the abatement of some portion of the assessed value of property receiving the exemption as it existed immediately prior to the improvement. An abatement for a dwelling may be granted with respect to that property for a total of up to five years, but the annual amount of the abatement granted to any single property shall not exceed 30% of the annual amount of the exemption granted under the ordinance. The abatement period and the annual percentage of the abatement to be granted shall be set forth in the ordinance, which may include a schedule providing for a different percentage of abatement, up to 30%, for each year of the abatement period.

c. An ordinance providing for exemptions or abatements, or both, for improvements to dwellings may also provide for the exemption of some portion of the assessed valuation of construction of new dwellings or of conversions of other buildings and structures, including unutilized public buildings, to dwelling use, or both. If so, the ordinance shall require that, in determining the value of real property, the municipality shall regard a percentage, not to exceed 30%, of the assessor's full and true value of the dwelling constructed, or conversion alterations made, as not increasing the value of the property for a total up to five years, notwithstanding that the value of the property upon which the construction or conversion occurs is increased thereby. The exemption period and the annual percentage of the exemption to be granted shall be set forth in the ordinance, which may include a schedule providing for a different percentage of exemption, up to 30%, for each year of the exemption period.

d. An ordinance providing for the exemption of some portion of the assessed valuation of construction of new dwellings, or of conversions of other buildings and structures to dwelling use, or both, may also provide for the abatement of some portion of the assessed value of the property receiving the exemption as it existed immediately prior to the construction or conversion alteration. An abatement for a dwelling may be granted for a total of up to five years, but the annual amount of the abatement shall not exceed 30% of the total cost of the construction or conversion alteration, and the total amount of abatements granted to any single property shall not exceed the total cost of the construction or conversion alteration. The abatement period and the annual percentage of the abatement to be granted shall be set forth in the

ordinance, which may include a schedule providing for a different percentage of abatement, up to 30%, for each year of the abatement period.

C.40A:21-6 Limits on exemptions or abatements for multiple dwellings.

6. a. If the ordinance adopted pursuant to this act shall provide for the exemption from taxation of improvements to multiple dwellings, or of conversions of other buildings and structures, including unutilized public buildings, to multiple dwelling use, or both, it shall require that, in determining the value of real property, the municipality shall regard up to the assessor's full and true value of the improvements or conversion alterations as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements or conversion alterations are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements or conversion alterations, unless an abatement is granted pursuant to subsection b. of this section, or there is damage to the multiple dwelling through action of the elements sufficient to warrant a reduction.

b. An ordinance providing for exemption may also provide for the abatement of some portion of the assessed value of property receiving the exemption as it existed immediately prior to the improvement or conversion alteration. An abatement for a multiple dwelling may be granted with respect to that property for a total of up to five years, but the annual amount of the abatement shall not exceed 30% of the total cost of the improvement or conversion alteration, and the total amount of abatements granted to any single property shall not exceed the total cost of the improvement or conversion alteration. The abatement period and the annual percentage of the abatement to be granted shall be set forth in the ordinance, which may include a schedule providing for a different percentage of abatement, up to 30%, for each year of the abatement period.

C.40A:21-7 Limits on exemptions for commercial, industrial structures.

7. If the ordinance adopted pursuant to this act shall provide for the exemption from taxation of improvements to commercial or industrial structures, it shall require that, in determining the value of real property, the municipality shall regard up to the assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less than

the assessment thereon existing immediately prior to the improvements, unless there is damage to the structure through action of the elements sufficient to warrant a reduction.

The ordinance may: a. grant exemptions for all commercial and industrial improvements; b. define categories of improvements which shall be approved by the assessor upon proper application, and other categories of improvements which may be exempted only after review, evaluation and approval by the municipal governing body; or, c. authorize exemption for improvements on an individual basis after review, evaluation and approval of each application by the governing body.

C.40A:21-8 Tax agreements for construction of commercial, industrial structures or multiple dwellings.

8. If the ordinance shall provide for tax agreements for the exemption and abatement from taxation for construction of commercial or industrial structures, or multiple dwellings, or both, the ordinance shall set forth procedures for entering into agreements for the exemption and abatement of real property taxes in accordance with the provisions of sections 9 through 12 of P.L.1991, c.441 (C.40A:21-9 through 40A:21-12). All tax agreements shall be applied for and granted on a project basis.

C.40A:21-9 Applications for tax agreements, requirements.

9. Applicants for tax exemption and abatement for new construction of commercial or industrial structures or multiple dwellings shall provide the municipal governing body with an application setting forth:

a. A general description of a project for which exemption and abatement is sought;

b. A legal description of all real estate necessary for the project;

c. Plans, drawings and other documents as may be required by the governing body to demonstrate the structure and design of the project;

d. A description of the number, classes and type of employees to be employed at the project site within two years of completion of the project;

e. A statement of the reasons for seeking tax exemption and abatement on the project, and a description of the benefits to be realized by the applicant if a tax agreement is granted;

f. Estimates of the cost of completing such project;

g. A statement showing (1) the real property taxes currently being assessed at the project site; (2) estimated tax payments that would be made annually by the applicant on the project during the

period of the agreement, and (3) estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement;

h. If the project is a commercial or industrial structure, a description of any lease agreements between the applicant and proposed users of the project, and a history and description of the users' businesses;

i. If the project is a multiple dwelling, a description of the number and types of dwelling units to be provided, a description of the common elements or general common elements, and a statement of the proposed initial rentals or sales prices of the dwelling units according to type and of any rental lease or resale restrictions to apply to the dwellings' units respecting low or moderate income housing;

j. Such other pertinent information as the governing body may require.

C.40A:21-10 Formula for payments under tax agreement.

10. Upon adoption of an ordinance authorizing a tax agreement for a particular project, the governing body may enter into a written agreement with the applicant for the exemption and abatement of local real property taxes. The 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 construction, 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.

C.40A:21-11 Tax agreements, duration, other law, valuation of ratables, copy to DCA.

11. a. All tax agreements entered into by municipalities pursuant to sections 9 through 12 of P.L.1991, c.441 shall be in effect for no more than the five full tax years next following the date of completion of the project.

b. All projects subject to tax agreement as provided herein shall be subject to all applicable federal, State and local laws and regulations on pollution control, worker safety, discrimination in employment, housing provision, zoning, planning and building code requirements.

c. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption and abatement not been granted for the property under the agreement shall be applied to the valuation of the property to determine the reduced valuation of the property to be included in the valuation of the municipality for determining equalization for county tax apportionment and school aid during

the term of the tax agreements covering the properties, and at the termination of an agreement for a property the reduced valuation procedure required under this section shall no longer apply.

d. Within 30 days after the execution of a tax agreement, a municipality shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

C.40A:21-12 Failure of conditions, full taxes due, termination.

12. a. If during any tax year prior to the termination of the tax agreement, the property owner ceases to operate or disposes of the property, or fails to meet the conditions for qualifying, then the tax which would have otherwise been payable for each tax year shall become due and payable from the property owner as if no exemption and abatement had been granted. The governing body of the municipality shall notify the property owner and tax collector forthwith and the tax collector shall within 15 days thereof notify the owner of the property of the amount of taxes due.

However, with respect to the disposal of the property, where it is determined that the new owner of the property will continue to use the property pursuant to the conditions which qualified the property, no tax shall be due, the exemption and the abatement shall continue, and the agreement shall remain in effect.

b. At the termination of a tax agreement, a project shall be subject to all applicable real property taxes as provided by State law and regulation and local ordinance; but nothing herein shall prohibit a project, at the termination of an agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

C.40A:21-13 Assessed value of property under abatement or exemption.

13. The assessor shall determine, on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. Except for projects subject to tax agreement, pursuant to sections 9 through 12 of P.L.1991, c.441, the amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year, minus the amount of the abatement, if any, allowed pursuant to this act, plus any portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this act. Subject to the provisions of the adopting ordinance, the property shall continue to

be treated in the appropriate manner for each of the five full tax years subsequent to the original determination by the assessor.

C.40A:21-14 Subsequent abatements or exemptions, conditions.

14. Any ordinance adopted pursuant to the provisions of this act may also provide that an additional improvement, conversion or construction, completed on a property granted a previous exemption or abatement pursuant to this act during the period in which such previous exemption or abatement is in effect, shall be qualified for an exemption, or exemption and abatement, just as if such property had not received a previous exemption or abatement. In such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating exemptions and abatements pursuant to this act, except that the assessed value of any previous improvement, conversion or construction shall be added to the assessed valuation as it was prior to that improvement, conversion alteration or construction for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted. Unless provided by ordinance, no additional exemption or abatement shall be allowed.

C.40A:21-15 Ineligible properties for unpaid or delinquent taxes.

15. No exemption or abatement shall be granted, or tax agreement entered into, pursuant to this act with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

C.40A:21-16 Applications, forms, records.

16. No exemption or abatement shall be granted pursuant to this act except upon written application therefor filed with and approved by the assessor of the taxing district wherein the improvement conversion alteration or construction is made. Every application shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, and provided for the use of claimants by the governing body of the municipality constituting the taxing district, and shall be filed with the assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion alteration or construction. Every application for exemption, or exemption and abatement, within a municipality adopting the provisions of this act which is filed within the time specified, shall be approved and allowed by the assessor to the degree that the application is consistent with the provisions of

the adopting ordinance or the tax agreement, provided that the improvement, conversion alteration or construction for which the application is made qualifies as an improvement, a conversion alteration or construction pursuant to the provisions of this act and the tax agreement, if any. The granting of an exemption, or exemption and abatement, or tax agreement shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date thereof.

C.40A:21-17 Exemption, abatement for taxes for named purposes.

17. The exemption and abatement of real property taxes provided by municipalities pursuant to this act shall apply to property taxes levied for municipal purposes, school purposes, county government purposes and for the purposes of funding any other property tax exemptions or abatements.

C.40A:21-18 Act not available to casinos.

18. Notwithstanding any other provision of this act, no exemption or abatement or tax agreement shall be allowed with respect to any facility containing a licensed gambling casino. The issuance of a casino license shall operate to invalidate any existing exemption, abatement or tax agreement, and all unpaid taxes otherwise due, were the exemption, abatement or tax agreement not granted, on the full and true value of the property shall become immediately due and payable.

C.40A:21-19 Rules, regulations.

19. The Commissioner of the Department of Community Affairs is authorized to determine standards and guidelines and to promulgate rules and regulations to effectuate the purposes of this act.

C.40A:21-20 Notice to taxpayers.

20. A municipality which has adopted an ordinance providing for exemptions, or exemptions and abatements, pursuant to this act shall include the appropriate notice in the mailing of annual property tax bills to each owner of a dwelling located in an area in which exemptions, or exemptions and abatements, may be allowed pursuant to the ordinance during the first year following adoption of the ordinance.

C.40A:21-21 Municipal reports to DCA, Treasury.

21. The governing body of a municipality adopting an ordinance pursuant to this act shall report, on or before October 1 of each year, to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the

Treasury the total amount of real property taxes exempted and the total amount abated within the municipality in the current tax year for each of the following:

a. improvements of dwellings;

b. construction of dwellings;

c. improvements and conversions of multiple dwellings;

d. improvements of commercial or industrial structures;

e. construction of multiple dwellings under tax agreements; and

f. construction of commercial or industrial structures under tax agreements.

In the case of e. and f. above, the report shall state instead the total amount of payments made in lieu of taxes according to each formula utilized by the municipality, and the difference between that total amount and the total amount of real property taxes which would have been paid on the project had the tax agreement not been in effect, for the current tax year.

The Director of the Division of Taxation shall include a summary of the information provided in the annual reports in the annual report of the division.

Repealer.

22. The following are repealed:

P.L.1975, c.104 (C.54:4-3.72 et seq.)

P.L.1977, c.12 (C.54:4-3.95 et seq.)

P.L.1977, c.284, ss.7,8 (C.54:4-3.79a. and 54:4-3.79 b.)

P.L.1979, c.233 (C.54:4-3.121 et al.)

23. No exemption or abatement granted, or tax agreement entered into, pursuant to an ordinance adopted pursuant to AN ACT repealed by this act shall be affected or terminated by virtue of that repeal, but shall remain in effect for the time and under the terms granted as if the act authorizing the ordinance had not been so repealed. Notwithstanding that repeal, any restriction or limitation contained in that act against a property being granted an additional exemption or abatement thereunder shall apply with respect to granting an exemption or abatement under this act, and no property which was granted an exemption or abatement under AN ACT so repealed shall be granted an exemption or abatement under this act unless the property would have qualified for an additional exemption or abatement under the act so repealed.

24. This act shall take effect immediately, and exemptions and abatements may be granted, and tax agreements entered into, for the first full tax year commencing after enactment and for tax years thereafter.

Approved January 18, 1992.

CHAPTER 442

AN ACT concerning handicapped parking enforcement 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.39:4-197.9 Handicapped parking enforcement units.

1. In order to implement the enforcement of P.L.1977, c.202 (C.39:4-197.5) subject to R.S.39:4-138, and of P.L.1975, c.221 (C.52:32-11 et seq.) and spaces established pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.) within its jurisdiction, a municipality may establish a handicapped parking enforcement unit under the supervision of the chief law enforcement officer of the municipality. The municipality may, by ordinance or resolution, provide procedures and other guidelines for the program consistent with this act which may give persons selected and trained for the unit the full power and authority to issue warnings or summonses for violations of any provision of any law, regulation, ordinance or resolution pertaining to illegal parking in restricted parking spaces for the handicapped. The unit shall concentrate its enforcement activity at any shopping centers or malls in the municipality.

C.39:4-197.10 Qualifications for appointment to unit.

2. No person shall be appointed to or continue to be eligible for participation in the handicapped parking enforcement unit unless he:

a. Evidences no criminal record as a result of a State criminal history record background check through the State Bureau of Identification in the Division of State Police in the Department of Law and Public Safety;

b. Is a resident of the municipality in which the unit is established; and

c. Is at least 18 years of age.

C.39:4-197.11 Preference for handicapped persons.

3. Preference for participation in this program may be given to persons who are handicapped as defined in P.L.1949, c.280 (C.39:4-204 et seq.).

C.39:4-197.12 Reimbursement for mileage.

4. Any person appointed to the municipality's handicapped parking enforcement unit shall be reimbursed for actual expenses of transportation incurred in the course of his work at a rate at least equal to the rate established by the State and adjusted pursuant to section 2 of P.L.1980, c.19 (C.52:14-17.1a).

C.39:4-197.13 Course of instruction required.

5. The municipality shall require any person who fulfills the requirements for appointment in section 2 of P.L.1991, c.442 (C.39:4-197.10) to take a course of instruction designed to prepare the person to properly fulfill his responsibilities under the law. The curriculum for the course shall include, but may not be limited to, appropriate information concerning public relations, the laws, regulations, resolutions, ordinances and other guidelines concerning restricted parking enforcement and court proceedings. Before the person may commence enforcement activity with the unit, he shall satisfactorily complete the prescribed course of instruction.

C.39:4-197.14 Permissive benefits.

6. The governing body of a municipality, by ordinance, may appropriate annually sums of money as it shall deem necessary for the purpose of compensating any such person for his services. The governing body of a municipality may provide the members of the handicapped parking enforcement unit with coverage under chapter 15 of Title 34 of the Revised Statutes (Workers' Compensation) or if the governing body chooses not to provide such coverage, it may appropriate annually sums of money as it shall deem necessary for the purpose of compensating such persons for any losses which would otherwise be compensable under chapter 15 of Title 34 of the Revised Statutes (Workers' Compensation). However, neither the municipality nor the State shall be required to provide any benefits thereto whatsoever.

C.39:4-197.15 Uniform and maintenance allowance.

7. Any person who is selected for the handicapped parking enforcement unit shall be provided, at the expense of the municipality, with a distinctive uniform on which is affixed a special

patch designating his function and shall be provided with reasonable maintenance thereof.

8. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 443

AN ACT establishing an annual award for woman police officer of the year.

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

C.36:2-27 Woman Police Officer of the Year Award.

1. a. Each year on August 26, Women's Equality Day, an award for Woman Police Officer of the Year shall be presented by the Governor to an individual in recognition of her devotion to duty and heroism. This award shall be known as the Abigail Powlett Award.

b. Nominations for the award may be submitted by any municipal, county or State police department in the State, at any time during the year, to the Office of the Attorney General in the Department of Law and Public Safety with a written statement setting forth the reasons for the individual's nomination.

c. From the nominations submitted, the Attorney General shall recommend one candidate to the Governor who shall present the award in a public ceremony.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 444

AN ACT concerning the purchase of service credit for public employment with certain municipalities or counties in this State by certain members of the Public Employees' Retirement System and supplementing P.L.1954, c.84 (C.43:15A-1 et seq.).

New Jersey State Library

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

C.43:15A-73.4 Purchase of credit for service in a local system.

1. A member who had established service credit in a municipal or county retirement system or pension fund in this State and who is ineligible to transfer the service credit to the retirement system may file a detailed statement of public employment with the municipality or county rendered prior to becoming a member for which the member desires credit and of such other facts as the retirement system may require. The member may purchase credit for all of the service evidenced in the statement up to the nearest number of years and months. No application shall be accepted for the purchase of credit for the service if, at the time of the application, the member has a vested right to retirement benefits in the municipal or county retirement system or pension fund based in whole or in part upon that service.

The member may purchase credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The purchase may be made in lump sum or in regular installments, equal to at least 1/2 of the full normal contribution to the retirement system, over a maximum period of 10 years. A member who applies to purchase credit for the service shall pay the full cost attributable to the increased benefits to be derived from the purchased credit in accordance with the actuarial method used to determine the cost at the time of the purchase. A member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit.

Any member electing to purchase the service who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 445

AN ACT concerning airport safety, amending P.L.1975, c.291, and amending and supplementing P.L.1983, c.260.

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

1. Section 1 of P.L.1983, c.260 (C.6:1-80) is amended to read as follows:

C.6:1-80 Findings, declarations.

1. It is found and declared by the Legislature that an airport hazard endangers the lives and property of the users of the airport and of occupants of land in the vicinity thereof, and also, if the hazard is of the obstruction type, it reduces the size of the area available for landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public benefit therein. Accordingly, it is declared:

a. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; therefore, it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented by the creation of airport safety zones and other means; and

b. That the prevention of the creation or establishment of airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power of the State, without compensation.

2. Section 2 of P.L.1983, c.260 (C.6:1-81) is amended to read as follows:

C.6:1-81 Short title.

2. Sections 1 through 9 of this act shall be known and may be cited as the "Air Safety and Zoning Act of 1983."

3. Section 3 of P.L.1983, c.260 (C.6:1-82) is amended to read as follows:

C.6:1-82 Definitions.

3. As used in this amendatory and supplementary act:

a. "Airport" means any area of land or water, or both designed and set aside for the landing and taking-off of fixed wing aircraft, utilized or

to be utilized by the public for such purposes, publicly or privately owned, and licensed by the commissioner as a public use airport or landing strip, or a proposed facility for which an application for a license has been submitted in complete form pursuant to N.J.A.C.16:54-1.4 and which has been determined by the commissioner as likely to be so licensed within one year of such determination. "Airport" shall not mean any facility which is owned and operated by a federal or military authority, or which is owned and operated by the Port Authority of New York and New Jersey or which is located within the Port of New York District as defined in R.S.32:1-3.

b. "Airport hazard" means (1) any use of land or water, or both, which creates a dangerous condition for persons or property in or about an airport or aircraft during landing or taking-off at an airport, or (2) any structure or tree which obstructs the air space required for the flight of aircraft in landing or taking-off at an airport.

c. "Airport safety zone" means any area of land or water, or both upon which an airport hazard might be created or established, if not prevented as provided in this supplementary act.

d. "Commissioner" means the Commissioner of Transportation.

e. "Department" means the Department of Transportation.

f. "Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, chimneys, and overhead transmission lines.

g. "Tree" means an object of natural vegetative growth.

4. Section 4 of P.L.1983, c.260 (C.6:1-83) is amended to read as follows:

C.6:1-83 Airport safety zones, delineation.

4. After public hearing upon notice, including notice to each affected municipality, and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and regulations which delineate airport safety zones for all airports subject to this amendatory and supplementary act. The regulations shall describe the methodology used to make the delineation and may delineate subzones.

5. Section 5 of P.L.1983, c.260 (C.6:1-84) is amended to read as follows:

C.6:1-84 Uses within airport safety zones, standards.

5. The commissioner shall adopt rules and regulations, pursuant to "Administrative Procedure Act," P.L.1968, c.410

(C.52:14B-1 et seq.), promulgating standards which specify permitted and prohibited land uses, including the specification of the height to which structures may be erected and trees allowed to grow, within airport safety zones. These standards shall be uniform for all airport safety zones, except that where the commissioner determines that local conditions require it, he may adopt an amended or special standard. No standard adopted under this amendatory and supplementary act shall be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the standard when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 9 of this amendatory and supplementary act.

6. Section 6 of P.L.1983, c.260 (C.6:1-85) is amended to read as follows:

C.6:1-85 Municipal ordinance to meet State standards.

6. Each municipality which contains within its boundaries any part of a delineated airport safety zone shall enact an ordinance or ordinances incorporating the standards promulgated by the commissioner pursuant to section 5 of this amendatory and supplementary act and providing for their enforcement within those delineated areas. A valid copy of this ordinance or ordinances, including any amendments that may be made from time to time, shall be transmitted to the commissioner.

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

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

19. Preparation; contents; modification.

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

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (12):

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

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (12) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

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

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

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

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

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

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil,

marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

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

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

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

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

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

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

Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

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

C.40:55D-38 Contents of ordinance.

29. Contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall include the following:

a. Provisions, not inconsistent with other provisions of this act, for submission and processing of applications for development, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development;

b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning ordinance;

(2) Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the master plan, if any, and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map;

(3) Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants;

(4) Suitable size, shape and location for any area reserved for public use pursuant to section 32 of this act;

(5) Reservation pursuant to section 31 of this act of any open space to be set aside for use and benefit of the residents of planned development, resulting from the application of standards of density or intensity of land use, contained in the zoning ordinance, pursuant to subsection c. of section 52 of this act;

(6) Regulation of land designated as subject to flooding, pursuant to subsection e. of section 52 of this act, to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or water or from excavation or grading;

(8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), for any airport safety zones delineated under that act;

(9) Conformity with a municipal recycling ordinance required pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16);

(10) Conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act," P.L.1989, c.32 (C.27:7-91), with respect to any State highways within the municipality;

(11) Conformity with any access management code adopted by the county under R.S.27:16-1, with respect to any county roads within the municipality;

(12) Conformity with any municipal access management code adopted under R.S.40:67-1, with respect to municipal streets;

(13) Protection of potable water supply reservoirs from pollution or other degradation of water quality resulting from the development or other uses of surrounding land areas, which provisions shall be in accordance with siting, performance, or other standards or guidelines adopted therefor by the Department of Environmental Protection; and

(14)Conformity with the public safety regulations concerning storm water detention facilities adopted pursuant to section 5 of P.L.1991, c.194 (C.40:55D-95.1) and reflected in storm water management plans and storm water management ordinances adopted pursuant to P.L.1981, c.32 (C.40:55D-93 et seq.);

c. Provisions governing the standards for grading, improvement and construction of streets or drives and for any required walkways, curbs, gutters, streetlights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary, and provisions ensuring that such facilities shall be completed either prior to or subsequent to final approval of the subdivision or site plan by allowing the posting of performance bonds by the developer;

d. Provisions ensuring that when a municipal zoning ordinance is in effect, a subdivision or site plan shall conform to the applicable provisions of the zoning ordinance, and where there is no

zoning ordinance, appropriate standards shall be specified in an ordinance pursuant to this article; and

e. Provisions ensuring performance in substantial accordance with the final development plan; provided that the planning board may permit a deviation from the final plan, if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

9. Section 49 of P.L.1975, c.291 (C.40:55D-62) is amended to read as follows:

C.40:55D-62 Power to zone.

49. Power to zone. a. The governing body may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon. Such ordinance shall be adopted after the planning board has adopted the land use plan element and the housing plan element of a master plan, and all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements; provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element and the housing plan element, but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and recorded in its minutes when adopting such a zoning ordinance; and provided further that, notwithstanding anything aforesaid, the governing body may adopt an interim zoning ordinance pursuant to subsection b. of section 77 of P.L.1975, c.291 (C.40:55D-90).

The zoning ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land. The regulations in the zoning ordinance shall be uniform throughout each district for each class or kind of buildings or other structure or uses of land, including planned unit development, planned unit residential development and residential cluster, but the regulations in one district may differ from those in other districts.

b. No zoning ordinance and no amendment or revision to any zoning ordinance shall be submitted to or adopted by initiative or referendum.

c. The zoning ordinance shall provide for the regulation of any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), in conformity with standards promulgated by the Commissioner of Transportation.

d. The zoning ordinance shall provide for the regulation of land adjacent to State highways in conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act," P.L.1989, c.32 (C.27:7-91), for the regulation of land with access to county roads and highways in conformity with any access management code adopted by the county under R.S.27:16-1 and for the regulation of land with access to municipal streets and highways in conformity with any municipal access management code adopted under R.S.40:67-1. This subsection shall not be construed as requiring a zoning ordinance to establish minimum lot sizes or minimum frontage requirements for lots adjacent to but restricted from access to a State highway.

10. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to read as follows:

C.40:55D-70 Powers.

57. Powers. The board of adjustment shall have the power to:

a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;

b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;

c. (1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such

property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act; provided, however, that no variance from those departures enumerated in subsection d. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use, in conjunction with which the planning board has power to review a request for a variance pursuant to subsection a. of section 47 of this act; and

d. In particular cases for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in section 3.1. of P.L.1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members, in the case of a municipal board, or two-thirds of the full authorized membership, in the case of a regional board, pursuant to article 10 of this act.

If an application development requests one or more variances but not a variance for a purpose enumerated in subsection d. of this section, the decision on the requested variance or variances shall be rendered under subsection c. of this section.

No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordi-

nance. In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or other relief may be granted under the terms of this section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

C.6:1-85.1 Municipal notice to owners.

11. a. Each municipality which contains within its boundaries any part of a delineated airport safety zone shall notify, in writing, each owner of record of property located within an airport safety zone of the boundaries of the airport safety zone, and a duly authenticated copy of this notification shall be filed with the county recording officer in the same manner as a deed or other instrument of conveyance.

No cause of action against the State, any county or municipality shall arise out of a failure to give the notice required by this subsection.

b. A metes and bounds description of airport safety zones shall be incorporated into the municipal maps used for tax purposes and prepared pursuant to R.S.54:1-15 and P.L.1939, c.167 (C.40:146-27 et seq.).

C.6:1-85.2 Sellers' notice to buyers.

12. Any person who sells or transfers a property in an airport safety zone delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.) and appearing in a municipal map used for tax purposes pursuant to subsection b. of section 11 of this 1991 amendatory and supplementary act, shall provide notice to a prospective buyer that the property is located in an airport safety zone prior to the signing of a contract of sale. Failure to provide notice required by this section may result in the suspension or revocation of the person's license to engage in real estate sales in this State or other appropriate disciplinary action by the New Jersey Real Estate Commission in the case of a person subject to the jurisdiction of the commission.

13. Rules and regulations adopted pursuant to the provisions of the "Air Safety and Hazardous Zoning Act of 1983," P.L.1983, c.260

(C.6:1-80 et seq.), prior to the enactment of P.L.1991, c.445 (C.6:1-80 et al.) shall continue in effect until amended or superseded.

14. This act shall take effect 180 days after enactment, but the Commissioner of Transportation may take any anticipatory action as may be necessary for the timely implementation of this act on the effective date thereof.

Approved January 18, 1992.

CHAPTER 446

AN ACT to authorize the borough of West Cape May in the county of Cape May to make permanent the appointment of William B. McPherson to the police department of the borough of West Cape May.

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

1. Pursuant to the provisions of P.L.1948, c.199 (C.1:6-10 et seq.), under which a petition for a special law has been filed with the Legislature, the borough of West Cape May in the county of Cape May is authorized to make permanent the appointment of William B. McPherson as a full-time police officer, notwithstanding his age is greater than the maximum age for appointment thereto set forth in N.J.S.40A:14-127.

2. With respect to an appointment made pursuant to section 1 of this act, William B. McPherson shall be exempt from the physical training aspects of a police training course required under section 3 of P.L.1961, c.56 (C.52:17B-68).

3. This act shall take effect upon due adoption of an ordinance of the borough of West Cape May for the purpose of adopting same.

Approved January 18, 1992.

CHAPTER 447

AN ACT concerning contact lens dispensers and supplementing P.L.1952, c.336 (C.52:17B-41.1 et seq.).

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

C.52:17B-41.25 Short title.

1. This act shall be known and may be cited as the "Contact Lens Dispenser Act."

C.52:17B-41.26 Definitions.

2. As used in this act:

a. "Practice of contact lens dispensing" means the sale or delivery of contact lenses to the patient based upon the prescription of powers for vision and specifications for contact lenses for the patient as provided by a licensed physician or optometrist. The practice includes, but is not limited to, the analysis and interpretation of prescriptions and specifications for contact lenses; the preparation of orders and the grinding for fabrication of contact lenses; the instruction of the patient as to the proper insertion, removal, care and the use of the contact lenses; and the duplication, reproduction and replacement of previously prepared contact lenses.

b. "Prescription" means written instructions or orders from a licensed physician or optometrist stating the powers of vision of a person.

c. "Duplication" means the replacement or reproduction of contact lenses based upon a prescription or specifications of record.

C.52:17B-41.27 Ophthalmic dispensers authorized.

3. Any ophthalmic dispenser licensed in New Jersey may engage in the practice of contact lens dispensing.

C.52:17B-41.28 Prescription required.

4. A contact lens dispenser shall only dispense contact lenses upon a written prescription provided by a licensed physician or optometrist containing the powers of vision and specifications for contact lenses for the patient.

C.52:17B-41.29 Replacement lenses on prescription or record.

5. Previously dispensed contact lenses shall only be replaced, reproduced, or duplicated upon the prescription or specifications of record, a copy of which shall be provided by the original contact lens prescriber

or dispenser upon the patient's request; provided that the prescription or specifications of record are not more than two years old

C.52:17B-41.30 Release of patient's prescription.

6. A licensed physician or optometrist shall release a copy of the patient's prescription containing a spectacle lens specification with contact lens specifications to any person qualified to dispense contact lenses upon the patient's request, except that nothing in this act shall require an optometrist or physician to write a prescription for contact lenses when, in the judgment of the optometrist or physician, it is contraindicated.

C.52:17B-41.31 Release of patient's contact lens specifications.

7. Notwithstanding any rule or regulation to the contrary, the complete record of contact lens specifications shall be released by an optometrist or ophthalmologist to the patient or to another ophthalmologist, optometrist or ophthalmic dispenser licensed in the State of New Jersey upon either the oral or written request of the patient or professional acting on the patient's behalf.

8. This act shall take effect on the 90th day after enactment.

Approved January 18, 1992.

CHAPTER 448

AN ACT concerning foster care 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-53.1 Findings, declarations.

1. The Legislature finds and declares that:

a. Due to the severity of health and social problems such as AIDS, drug abuse and homelessness, the Division of Youth and Family Services in the Department of Human Services often works with families over a period of many years, and the children of these families often spend a majority of their young lives in foster care; and

b. Research has shown that the longer children remain in the foster care system, the greater number of placements they experience. As a result of these multiple placements, from natural family to foster home and from one foster home to another foster home, children develop emotional and psychological problems, making it more difficult for them to develop a positive self-image; and

c. For the majority of these children, placement in residential treatment facilities becomes the only viable option left to the division because it is more difficult for the division to find adoptive homes for them when, and if, adoption becomes a case goal; and

d. The obligation of the State to recognize and protect the rights of children in the child welfare system should be fulfilled in the context of a clear and consistent policy which limits the repeated placement of children in foster care and promotes the eventual placement of these children in stable and permanent homes.

C.30:4C-53.2 Definition of repeated placement, etc.

2. For purposes of this act, the terms "repeated placement into foster care" and "placed again into foster care" shall apply to a child who has been placed in the custody of the Division of Youth and Family Services for placement in foster care by the family part of the Chancery Division of the Superior Court or as a result of a voluntary placement agreement pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.), released into the custody of his parents or legally responsible guardian at the conclusion of the placement and is once again temporarily removed from his place of residence and placed under the division's care and supervision.

C.30:4C-53.3 Revised, repeated placement plans, requisites.

3. a. The division shall not treat a child's repeated placement into foster care as an initial placement. The child's revised placement plan, updated at the time of the child's repeated placement, shall summarize the child's prior history with the division regarding previous placements, the findings of the child placement review board, as well as a copy of the court order for the removal of the child from the custody of his parents or guardian. The revised placement plan shall be used by the division when preparing the child's repeated placement plan pursuant to this section.

b. Whenever a child is placed again into foster care, the division shall prepare a repeated placement plan which shall ensure the goal of permanency through the safe return of the child to his parents or, if this is not possible, through the State's assumption of guardianship for the purpose of finding the child an adoptive home.

The plan shall be prepared within 30 days after the child's repeated placement and submitted to the court. The plan shall be valid for 12 months after the date the child was placed again into foster care.

c. The repeated placement plan shall include, but not be limited to:

(1) The specific reasons for the repeated placement of the child, including a description of the problems or conditions in the home of the parents or guardian which necessitated the child's removal, and a summary of the efforts made by the division to prevent the child's repeated placement;

(2) The specific actions to be taken by the child's parents or guardian to eliminate the identified problems or conditions which were the basis of the child's repeated placement into foster care, which actions shall be taken within a specific time limit agreed upon by the child's caseworker and the parents or guardian;

(3) The social services to be provided to the child's parents or guardian, the child and the foster parents during the period the child is in foster care. The purpose of the supportive services shall be to promote the child's best interest and to facilitate his return to his natural home;

(4) An assessment of the division's ability to obtain a child's birth certificate, locate the child's parents for future contact and have access to the child's extended family, in the event that an adoption plan becomes necessary; and

(5) A stipulation that the child be placed with his prior foster family, if possible, to provide the child with continuity and stability in his living environment.

C.30:4C-53.4 Petition for guardianship; procedure.

4. If the parents or guardian of the child are unwilling or unable to remedy the problems or conditions outlined in the child's repeated placement plan within the specified time limit and despite diligent efforts by the division, the division shall file a petition for guardianship with the family part of the Chancery Division of the Superior Court pursuant to section 15 of P.L.1951, c.138 (C.30:4C-15).

The court shall set a hearing, with notice to all parties, on the guardianship petition within 45 days from the date the petition was filed.

C.30:4C-53.5 Rules, regulations.

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

6. This act shall take effect one year after enactment.

Approved January 18, 1992.

CHAPTER 449

AN ACT concerning commercial motor vehicles and amending R.S.39:3-84.

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

1. R.S.39:3-84 is amended to read as follows:

Vehicles; dimensional, weight limitations.

39:3-84. a. The following constitute the maximum dimensional limits for width, height and length for any vehicle or combination of vehicles, including load or contents or any part or portion thereof, found or operated on any public road, street or highway or any public or quasi-public property in this State. Violations shall be enforced pursuant to subsection i. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

The dimensional limitations set forth in this subsection are exclusive of safety and energy conservation devices necessary for safe and efficient operation of a vehicle or combination of vehicles, including load or contents, except that no device excluded herein shall have by its design or use the capability to carry, transport or otherwise be utilized for cargo.

Any rules and regulations authorized to be promulgated pursuant to this subsection shall be consistent with any rules and regulations promulgated by the Secretary of Transportation of the United States of America, and shall be in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In addition to the other requirements of this subsection and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents or any part or portion thereof, except as otherwise provided by this subsection shall be operated in this State, unless by special permit authorized by subsection d. of this section with a dimension, the allowance of which would disqualify the State of

New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

As used herein and pursuant to R.S.39:1-1, the term "vehicle" includes, but is not limited to, commercial motor vehicles, trucks, truck tractors, tractors, road tractors, or omnibuses. As used herein and pursuant to R.S.39:1-1, the term "combination of vehicles" includes, but is not limited to, vehicles as heretofore designated, when those vehicles are the drawing or power unit of a combination of vehicles and motor-drawn vehicles, such as, but not limited to, trailers, semi-trailers, or other vehicles. As used herein, the term "recycling vehicle" means a commercial motor vehicle used for the collection or transportation of recyclable material; or any truck, trailer or other vehicle approved by the New Jersey Office of Recycling for use by persons engaging in the business of recycling or otherwise providing recycling services in this State; and "recyclable material" means those materials which would otherwise become solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(1) The maximum outside width of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall be no more than 102 inches; except that the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations for those public roads, streets or highways or public or quasi-public property in this State, where it is determined that the interests of public safety and welfare require the maximum outside width be no more than 96 inches.

(2) The maximum height of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 13 feet, 6 inches.

(3) The maximum overall length of any vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 40 feet, except that the overall length of a vehicle, including load or contents or any part or portion thereof, otherwise subject to the provisions of this paragraph shall not exceed 50 feet when transporting poles, pilings, structural units or other articles which cannot be dismembered, dismantled or divided. When a vehicle, subject to this paragraph, is the drawing or power unit of a combination of vehicles, as set forth in this sub-

section, the overall length of the combination of vehicles, including load or contents or any part or portion thereof, shall not exceed 62 feet. The provisions of this paragraph shall not apply to omnibuses or to vehicles which are not designed, built or otherwise capable of carrying cargo or loads.

(4) The maximum overall length of a motor-drawn vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 53 feet when operated as part of a combination of vehicles consisting of one motor-drawn vehicle and a drawing or power unit vehicle not designed, built or otherwise capable of carrying cargo or loads, except that a motor-drawn vehicle, the overall length of which is greater than 48 feet and not more than 53 feet, shall be constructed so that the distance between the kingpin of the motor-drawn vehicle and the centerline of its rear axle or rear axle group does not exceed 41 feet; the motor-drawn vehicle shall be equipped with a rear-end protection device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the motor-drawn vehicle and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface; the kingpin of the trailer shall not be set back further than 3.5 feet from the front of the semitrailer; the rear overhang, measured from the center of the rear tandem axles to the rear of the semitrailer shall not exceed 35% of the semitrailer's wheelbase; the tractor wheelbase shall not exceed 20 feet between the center of the front axle and the center of the rear single axle or tandem axles; the width of the semitrailer and the distance between the outside edges of the trailer tires shall be 102 inches; and the vehicle shall be equipped with such reflectorization, including but not limited to side-marker reflectorization strips located between the rear axle and the rear of the motor-drawn vehicle, as shall be prescribed by the Division of Motor Vehicles, and as is consistent with any applicable federal standards concerning reflectorization. The overall length of a motor-drawn vehicle otherwise subject to the provisions of this paragraph shall not exceed 63 feet when transporting poles, pilings, structural units or other articles that cannot be dismembered, dismantled or divided. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate

rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where the combination of vehicles as described in this paragraph may lawfully operate. The commissioner shall promulgate rules and regulations within 120 days after the effective date of this amendatory act to identify a network of roads with reasonable access for motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length. The commissioner shall, in establishing this network, consider all portions of the network for 48 foot long and 102 inch wide motor-drawn vehicles and specify those routes or portions thereof where motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length shall be excluded from lawful operation for reasons of safety.

(5) No combination of vehicles, including load or contents, consisting of more than two motor-drawn vehicles, as set forth in this subsection, and any other vehicle, shall be found or operated on any public road, street or highway or any public or quasi-public property in this State.

(6) The maximum overall length of a motor-drawn vehicle, as set forth in this section, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, when operated as part of a combination of vehicles consisting of two motor-drawn vehicles and a drawing or power unit vehicle which is not designed, built or otherwise capable of carrying cargo or loads, shall not exceed 28 feet for each motor-drawn vehicle in the combination of vehicles. The provision of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where combinations of vehicles as described in this paragraph may lawfully operate.

(7) The maximum length and outside width of an omnibus found or operated in this State shall be established by rules and regulations promulgated by the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police. Unless otherwise

specified in the aforesaid rules and regulations, the maximum outside width shall be 102 inches; any other dimension established for width in the aforesaid rules and regulations shall be based upon a determination that operation of an omnibus with a width of less than 102 inches, but no less than 96 inches is required in the interest of public safety on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations, or that operation of an omnibus with a width greater than 102 inches is not unsafe on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations.

(8) The maximum width and length of farm tractors and traction equipment and farm machinery and implements shall be established by rules and regulations promulgated by the Director of the Division of Motor Vehicles. The operation of the aforesaid vehicles shall be subject to the provisions of R.S.39:3-24 and they shall not be operated on any highway which is part of the National System of Interstate and Defense Highways or on any highway which has been designated a freeway or parkway as provided by law.

(9) The maximum outside width of the cargo or load of a vehicle or combination of vehicles, including farm trucks, loaded with hay or straw shall not exceed 105 1/2 inches, but the maximum outside width of the vehicle or combination of vehicles, including farm trucks, shall otherwise comply with the provisions of paragraph (1) of this subsection. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations establishing a maximum outside width of 102 inches for the aforesaid cargo or load when operating on those highways where a greater width is prohibited by operation of law.

(10) Notwithstanding the provisions of paragraphs (4) and (6) of this subsection pertaining to length, the Director of the Division of Motor Vehicles may adopt rules and regulations specifying maximum length dimensions for any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles.

(11) The provisions of this subsection pertaining to length shall not apply to a vehicle or combination of vehicles or special mobile equipment operated by a public utility, as defined in R.S.48:2-13, when that vehicle or combination of vehicles or special mobile

equipment is used by the public utility in the construction, reconstruction, repair or maintenance of its property or facilities.

(12) The provisions of this subsection pertaining to width shall not apply to a recycling vehicle when that vehicle is used for the collection of recyclable material on a street or highway other than a highway which is designated part of the National System of Interstate and Defense Highways in this State or as a freeway or parkway as provided by law. The maximum outside width of any recycling vehicle so used, including load or contents of any part or portion thereof, shall be no more than 96 inches, except that the width may be up to 105 inches whenever that vehicle is operating at 15 miles per hour or less, and access steps are deployed and recyclable materials are actually being collected.

b. No vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or any public or quasi-public property in this State shall exceed the weight limitations set forth in this Title. Violations shall be enforced pursuant to subsection j. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

Where enforcement of a weight limit provision of this Title requires a measurement of length between axle centers, the distance between axle centers shall be measured to the nearest whole foot or whole inch, whichever is applicable, and when the measurement includes a fractional part of a foot equaling six inches or more or a fractional part of an inch equaling one-half inch or more, the next larger whole foot or whole inch, whichever is applicable, shall be utilized. The term "tandem axle" as used in this act is defined as a combination of consecutive axles, consisting of only two axles, where the distance between axle centers is 40 inches or more but no more than 96 inches.

In addition to the other requirements of this section and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents, shall be operated in this State, unless by special permit authorized by this Title, with a gross weight, single or multiple axle weight, or gross weight of two or more consecutive axles, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

(1) The gross weight imposed on the highway or other surface by the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds.

For the purpose of this Title the combined gross weight imposed on the highway or other surface by all the wheels of any

one axle of a vehicle or combination of vehicles, including load or contents, shall be deemed to mean the total gross weight of all wheels whose axle centers are spaced less than 40 inches apart.

(2) The gross weight imposed on the highway or other surface by all the wheels of all consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 34,000 pounds where the distance between consecutive axle centers is 40 inches or more, but no more than 96 inches apart.

(3) The combined gross weight imposed on the highway or other surface by all the wheels of consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds for each single axle where the distance between consecutive axle centers is more than 96 inches; except that on any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. § 103(e), this single axle limitation shall not apply and in those instances the provisions of this Title as set forth at R.S.39:3-84b.(5) shall apply.

(4) The maximum total gross weight imposed on the highway or other surface by a vehicle or combination of vehicles, including load or contents, shall not exceed 80,000 pounds.

(5) On any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. § 103(e), the total gross weight, in pounds, imposed on the highway or other surface by any group of two or more consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed that listed in the following Table of Maximum Gross Weights, for the respective distance, in feet, between the axle centers of the first and last axles of the group of two or more consecutive axles under consideration; except that in addition to the weights specified in that Table, two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the combined gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

In all cases the combined gross weight for a vehicle or combination of vehicles, including load or contents, or the maximum gross weight for any axle or combination of axles of the vehicle or combination of vehicles, including load or contents, shall not exceed that which is permitted pursuant to this paragraph or

R.S.39:3-84b.(2); R.S.39:3-84b.(3); or R.S.39:3-84b.(4) of this act, whichever is the lesser allowable gross weight.

TABLE OF MAXIMUM GROSS WEIGHTS

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
3	22400	22400	22400	22400	22400	22400
4	34000	34000	34000	34000	34000	34000
5	34000	34000	34000	34000	34000	34000
6	34000	34000	34000	34000	34000	34000
7	34000	34000	34000	34000	34000	34000
8	34000	34000	34000	34000	34000	34000
9	39000	42500	42500	42500	42500	42500
10	40000	43500	43500	43500	43500	43500
11	41000	44000	44000	44000	44000	44000
12	42000	45000	50000	50000	50000	50000
13	43000	45500	50500	50500	50500	50500
14	44000	46500	51500	51500	51500	51500
15	44800	47000	52000	52000	52000	52000
16	44800	48000	52500	58000	58000	58000
17	44800	48500	53500	58500	58500	58500
18	44800	49500	54000	59000	59000	59000
19	44800	50000	54500	60000	60000	60000
20	44800	51000	55500	60500	66000	66000
21	44800	51500	56000	61000	66500	66500
22	44800	52500	56500	61500	67000	67000
23	44800	53000	57500	62500	68000	68000
24	44800	54000	58000	63000	68500	74000
25	44800	54500	58500	63500	69000	74500
26	44800	55500	59500	64000	69500	75000
27	44800	56000	60000	65000	70000	75500
28	44800	57000	60500	65500	71000	76500
29	44800	57500	61500	66000	71500	77000
30	44800	58500	62000	66500	72000	77500
31	44800	59000	62500	67500	72500	78000
32	44800	60000	63500	68000	73000	78500
33	44800	60500	64000	68500	74000	79000
34	44800	61500	64500	69000	74500	80000
35	44800	62000	65500	70000	75000	80000
36	44800	63000	66000	70500	75500	80000
37	44800	63500	66500	71000	76000	80000

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
38	44800	64500	67500	71500	77000	80000
39	44800	65000	68000	72500	77500	80000
40	44800	66000	68500	73000	78000	80000
41	44800	66500	69500	73500	78500	80000
42	44800	67200	70000	74000	79000	80000
43	44800	67200	70500	75000	80000	80000
44	44800	67200	71500	75500	80000	80000
45	44800	67200	72000	76000	80000	80000
46	44800	67200	72500	76500	80000	80000
47	44800	67200	73500	77500	80000	80000
48	44800	67200	74000	78000	80000	80000
49	44800	67200	74500	78500	80000	80000
50	44800	67200	75500	79000	80000	80000
51	44800	67200	76000	80000	80000	80000
52	44800	67200	76500	80000	80000	80000
53	44800	67200	77500	80000	80000	80000
54	44800	67200	78000	80000	80000	80000
55	44800	67200	78500	80000	80000	80000
56	44800	67200	79500	80000	80000	80000
57	44800	67200	80000	80000	80000	80000
58	44800	67200	80000	80000	80000	80000
59	44800	67200	80000	80000	80000	80000
60	44800	67200	80000	80000	80000	80000
61	44800	67200	80000	80000	80000	80000
62	44800	67200	80000	80000	80000	80000
63	44800	67200	80000	80000	80000	80000
64	44800	67200	80000	80000	80000	80000
65	44800	67200	80000	80000	80000	80000
66	44800	67200	80000	80000	80000	80000
67	44800	67200	80000	80000	80000	80000
68	44800	67200	80000	80000	80000	80000
69	44800	67200	80000	80000	80000	80000
70	44800	67200	80000	80000	80000	80000

c. The dimensional and weight restrictions set forth herein shall not apply to a combination of vehicles which includes a disabled vehicle or a combination of vehicles being removed from a highway in this State, provided that such oversize or overweight vehicle combination may not travel on the public highways more than five miles from the point where such disablement occurred. If the disablement occurred on a limited

access highway, the distance to the nearest exit of such highway shall be added to the five-mile limitation.

d. The Director of the Division of Motor Vehicles may promulgate rules and regulations, including the establishment of fees, for the issuance, at his discretion and if good cause appears, of a special written permit authorizing the applicant:

(1) To operate or move a vehicle or combination of vehicles or special mobile equipment, transporting one piece loads that cannot be dismembered, dismantled or divided in order to comply with the weight limitations set forth in this act. The special written permit issued by the director shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which said permit was issued; and

(2) To operate or move a vehicle or combination of vehicles or specialized mobile equipment, transporting a load or cargo that cannot be dismembered, dismantled or divided in order to comply with the dimensional limitations set forth in this act. The special written permit shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which the permit was issued; and

(3) Under emergency conditions, to operate or move a type of vehicle or combination of vehicles or special mobile equipment of a size or weight, including load or contents, which exceeds the maximum size or weight limitations specified in this act.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 450

AN ACT creating the New Jersey Council on Environmental Quality, and supplementing Title 13 of the Revised Statutes.

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

C.13:1DD-1 Findings, declarations.

1. The Legislature finds and declares that New Jersey's natural environment provides priceless resources to the people of the State of New

Jersey; that these are resources vital for the economic, recreational, and aesthetic benefits central to the health and well being of the citizens of this State; that the maintenance of these valuable benefits is heavily dependent upon improving environmental quality and long range public planning therefor; that these resources are threatened by pollution, increasing population density, and land development; that environmental problems are persistent and pervasive, requiring both short- and long-term approaches by government; that poor environmental quality is also a present and potential danger to public health; that a coordinated effort by the State is required to maintain and improve environmental quality, and to mitigate and reduce the adverse effects of hazardous and other pollutants on human health; that protection, restoration or improvement of the environment and human health requires a cooperative effort between the public and private sectors; and that there is a need for a public body removed from day-to-day regulatory involvements that is at liberty to take a more comprehensive and longer term view of the problems of protecting, managing and improving New Jersey's physical environment, including its natural resources, and mitigating and reducing the adverse effects of environmental degradation and pollution on human health.

C.13:1DD-2 New Jersey Council on Environmental Quality.

2. There is established in the Executive Branch of the State Government the New Jersey Council on Environmental Quality. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the council is allocated within the Department of Environmental Protection; notwithstanding that allocation, the council shall be independent of any supervision or control by the Commissioner of Environmental Protection, or any officer or employee of the department. The council shall consist of ten members as follows: the Commissioner of Environmental Protection, or a designee, who shall serve ex officio, but shall not be entitled to vote; five members, to be appointed by the Governor, with the advice and consent of the Senate, who shall be representatives of industry, civic organizations, environmental groups, municipal or county government, and the educational institutions of this State, with one member appointed from each category; and four public members, to be appointed by the Governor, with the advice and consent of the Senate, who shall have demonstrated a knowledge of, and

interest in, environmental or environmental health issues and environmental protection, with two members having at least a master's degree in the physical or life sciences, and two members having at least a master's degree in the social or public policy sciences. Membership on the council shall be geographically and demographically balanced and nonpartisan. Council members, with the exception of the ex officio member, shall be appointed for three-year terms, except that of the members first appointed, four members shall be appointed for a term of one year and five members for a term of two years, with the terms to be evenly distributed, to the maximum extent practicable, between the two groups of voting members. Vacancies shall be filled in the same manner as the original appointment for the remainder of the uncompleted term. A member shall serve until a successor is appointed and is qualified. Any member of the council may be removed for cause by the Governor.

Members of the council shall serve without compensation, but the council may, within the limits of funds available therefor, reimburse its members, except the commissioner or the commissioner's designee, for necessary expenses incurred in the discharge of official duties.

Voting members of the council, except for the representative of an educational institution of the State, may not be employees of the State.

C.13:1DD-3 Organization of the council, quorum, meetings.

3. The council shall organize as soon as practicable after the appointment of all its members. At the organizational meeting the council members shall elect a chairperson, vice chairperson and secretary from among the council's members. A majority of the authorized and voting membership shall constitute a quorum for the transaction of council business. Action by the council may be taken by affirmative vote of a majority of the members present and authorized to vote. The council shall meet at least once every three months, and may meet at such other times upon call of the chairperson. Meetings of the council shall be subject to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

The council may call to its assistance and avail itself of the services of such employees of the Department of Environmental Protection and other departments or agencies of the State, or any political subdivision of the State, as it may require and as may be made available to it for carrying out the council's responsibilities under this act. Within the limits of funds appropriated or otherwise made available therefor, the council may employ such professional, stenographic and clerical assistance, and incur such traveling and other expenses, as may be deemed necessary to the performance of its responsibilities.

C.13:1DD-4 Biennial reports, studies, public hearings.

4. The council shall prepare on a biennial basis a report to the Governor, the Legislature and the residents of New Jersey on the state of the environment and environmental health in New Jersey.

The council shall also conduct studies and may prepare reports on any matter set forth in section 5 of this act. Council reports may include such policy, program, organizational or other recommendations to the Governor, the Legislature, or the Commissioner of Environmental Protection, including legislation or administrative recommendations, as the council deems necessary or useful for the protection, management or enhancement of the quality of the natural or urban environment, and the protection or improvement of environmental health.

Prior to adoption of any report, the council shall hold at least two public hearings on the draft report, and any recommendations contained therein, for the purpose of allowing residents of the State to comment on the draft report or recommendations. The council shall hold at least one public hearing in the northern part and at least one public hearing in the southern part of the State.

The council may charge a fee for council reports, which shall not exceed the cost of printing and mailing copies thereof.

C.13:1DD-5 Duties of the council.

5. The council shall:

a. Identify, document, analyze and interpret conditions, changes or trends relating to the state of New Jersey's air, water and land resources, and the effects of environmental pollution on animal and plant life and human health;

b. Review and evaluate human health risk assessment and environmental impact assessment methods and techniques in order to better understand the dynamics of ecological and physiological stress from hazardous and other pollutants discharged to the environment;

c. Review and evaluate alternative strategies for protecting and managing the environment, including the natural resources of the State, and for protecting human health and animal and plant life from environmental exposure to hazardous substances and other pollutants;

d. Develop guiding principles, priorities and strategies for long-term public research on the adverse effects on human health of environmental degradation and environmental exposure to hazardous substances and other pollutants;

e. Study and assess the environmental impacts of the land use and development, energy, transportation and other infrastructure programs and policies of State and local governments;

f. Review and evaluate current State environmental programs and policies with respect to cross-program consistency, compatibility, and coordination, and the effectiveness of these programs and policies in achieving their intended objectives;

g. Review and evaluate problems of intergovernmental program and policy compatibility and coordination, including federal, State and local government policies and programs;

h. Study and develop methods and procedures for better integrating environmental considerations into the decisionmaking processes of State and local governments, as well as the decisionmaking processes of private entities and the general public;

i. At its own initiative, or at the direction of the Governor, the Commissioner of Environmental Protection, or the Legislature pursuant to a concurrent resolution, review any other issue or problem relating to the protection, management or restoration of the environment, and mitigating the adverse effects of environmental degradation, including hazardous and other pollutants, on public health; and

j. Review and evaluate the functions of any State agency or local government as those functions relate to environmental or environmental health issues and environmental protection. In carrying out the functions pursuant to this subsection, the council may request to review pertinent documents as may be in the possession of the State agency or local government.

6. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 451

AN ACT concerning the duration of certain 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 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. Duration of certain contracts. All purchases, contracts or agreements for the performing of work or the furnishing of mate-

rials, 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, 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 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) Onsite 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 service 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 contact includes the

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

All multi-year 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, contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

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

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 452

AN ACT concerning motorcycle safety education, supplementing P.L.1987, c.284 (C.27:5F-18 et seq.) and amending R.S.39:3-10 and P.L.1951, c.216.

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

C.27:5F-36 Motorcycle safety education program.

1. a. The Director of the Office of Highway Traffic Safety in the Department of Law and Public Safety, after consultation with the motorcycle safety education advisory committee established under section 3 of P.L.1991, c.452 (C.27:5F-38), shall establish a motorcycle safety education program. The program shall consist of a course of instruction and training designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation and riding of a motorcycle and shall meet or exceed the standards and requirements of the rider's course developed by the Motorcycle Safety Foundation.

b. The motorcycle safety education course shall be open to any applicant for a New Jersey motorcycle license or endorsement and to any person who has been issued a New Jersey motorcycle license or endorsement. The course shall be scheduled for such times and places as the director shall determine are appropriate to enable interested applicants for and persons with motorcycle licenses and endorsements to participate.

c. The director may assign employees of the Office of Highway Traffic Safety to serve as instructors for the course, or may contract with such other persons who are certified as motorcycle safety education instructors pursuant to section 2 of P.L.1991, c.452 (C.27:5F-37) to serve as instructors for the course. A person with a motorcycle safety education instructor endorsement to an instructor's license issued pursuant to section 5 of P.L.1951, c.216 (C.39:12-5) may also be selected by the director to serve as an instructor for the course.

d. If the moneys deposited in the Motorcycle Safety Education Fund established pursuant to section 4 of P.L.1991, c.452 (C.27:5F-39), are not sufficient to cover the costs of the program, the director may impose a registration fee to be paid by the participants in the course.

e. The motorcycle safety education course may also be provided by public and private educational institutions which are approved by the director to offer the course or by drivers' schools licensed pursuant to P.L.1951, c.216 (C.39:12-1 et seq.).

C.27:5F-37 Instructors, certification.

2. To qualify for certification as an instructor of the motorcycle safety education course established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36), a person shall:

a. be the holder of a motorcycle operator's license or endorsement issued by any state;

b. have at least two years of motorcycle riding experience;

c. have no record of a suspension or revocation of his driver's license or motorcycle license or endorsement during the past two years;

d. have no convictions for violating the provisions of R.S.39:4-50 during the past five years;

e. have accumulated no more than four points assessed against his driver's license or motorcycle license or endorsement by the director for motor vehicle offenses during the past two years;

f. be the holder of a current Motorcycle Safety Foundation certification as a motorcycle instructor; and

g. meet such other requirements as the Director of the Office of Highway Traffic Safety may deem appropriate and necessary.

Any person who meets the requirements set forth in this section may apply to the Director of the Office of Highway Traffic Safety to be certified as a motorcycle safety education instructor. The application shall be in writing and contain such information as the director shall require. No certification fee shall be charged by the director. A certification so issued shall be valid during such period as the instructor meets the requirements of subsections a. through g. of this section.

A person who holds a valid instructor's license issued pursuant to section 5 of P.L.1951, c.216 (C.39:12-5) may apply to the Director of the Division of Motor Vehicles for a motorcycle safety education instructor endorsement as provided for in section 5 of P.L.1951, c.216 (C.39:12-5).

C.27:5F-38 Motorcycle safety education advisory committee.

3. There is established a motorcycle safety education advisory committee. The committee shall consist of nine members and shall include the Director of the Office of Highway Traffic Safety in the Department of Law and Public Safety, a representative designated by the New Jersey State Association of Chiefs of Police, a representative designated by the Driving School Association of New Jersey, a representative designated by the New Jersey Police Traffic Officers Association, and the Director of the Division of Motor Vehicles. The remaining four members, to be appointed by the Governor, shall include a motorcycle dealer, a motorcycle safety education instructor certified under section 2 of P.L.1991, c.452 (C.27:5F-36), and two representatives of American Bikers Aim To Educate.

The committee shall assist the Director of the Office of Highway Traffic Safety in developing the motorcycle safety education program in accordance with the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) and in reviewing proposed changes in that program.

C.27:5F-39 Motorcycle Safety Education Fund.

4. There is established a Motorcycle Safety Education Fund in the Office of Highway Traffic Safety. Such registration fees as may be imposed at the discretion of the Director of the Office of Highway Traffic Safety upon participants in a motorcycle safety education course, $5.00 of the fee collected by the Director of the Division of Motor Vehicles for each motorcycle license or endorsement issued under the provisions of R.S.39:3-10, and any other moneys which may become available for motorcycle safety education shall be deposited in the fund. The moneys in the fund shall be used exclusively by the Office of Highway Traffic Safety to defray the costs of the motorcycle safety education program established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36). In addition, moneys in the fund may be used to provide for a full or part-time motorcycle safety education program coordinator.

C.27:5F-40 Rules, regulations.

5. The Director of the Office of Highway Traffic Safety, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act, including, but not limited to, the minimum level of knowledge, skill and ability required for the successful completion of the motorcycle safety education program established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36).

C.39:3-10.31 Motorcycle road test, waiver.

6. The Director of the Division of Motor Vehicles may waive the road test portion of the examinations required for a motorcycle license or endorsement under R.S.39:3-10 for the holder of an examination permit who has successfully completed a motorcycle safety education course established under the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36).

7. 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.

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 48th 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.

8. Section 5 of P.L.1951, c.216 (C.39:12-5) is amended to read as follows:

C.39:12-5 Instructor's license, motorcycle endorsement.

5. No person shall be employed by any such licensee to give instruction in driving a motor vehicle unless he shall be licensed to act as such instructor by the director. No person shall be employed by such licensee to instruct a motorcycle safety education course as established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36) unless he has received from the director a motorcycle safety education instructor endorsement to his instructor's license. The director shall issue a motorcycle safety education instructor endorsement to an instructor's license if the person meets the requirements set forth in section 2 of P.L.1991, c.452 (C.27:5F-37).

Application for an instructor's license or for a motorcycle safety education instructor endorsement to an instructor's license shall be in writing and shall contain such information as the director shall require.

The initial fee for an instructor's license shall be $75.00 and a fee for an annual renewal thereof shall be $30.00. No additional fee shall be charged by the director for a motorcycle safety education instructor endorsement. The license so issued shall be valid for the calendar year within which it is issued, and renewals shall be for succeeding calendar years.

9. Section 6 of P.L.1951, c.216 (C.39:12-6) is amended to read as follows:

C.39:12-6 Denial of license, endorsement applications.

6. The director may deny the application of any person for an instructor's license or for a motorcycle safety education instructor endorsement to an instructor's license if, in his discretion, he determines that:

a. the applicant has made a material false statement or concealed a material fact in connection with his application therefor;

b. the applicant has failed to furnish satisfactory evidence of the facts required of him in section five of this act; or

c. the applicant for an instructor's license is not of good moral character; that he has not held a license to drive a motor vehicle within the State for the past three consecutive years; that he has not had a driving record satisfactory to the director; that he has been convicted of crime; that he is disqualified for a motorcycle safety education instructor endorsement for any reason set forth in section 2 of P.L.1991, c.452 (C.27:5F-37).

10. Section 8 of P.L.1951, c.216 (C. 39:12-8) is amended to read as follows:

C.39:12-8 Suspension, revocation, refusal to renew licenses, endorsements.

8. The director or any employee of the Division of Motor Vehicles deputized by him may suspend or revoke any instructor's license issued under the provisions of this act or refuse to issue renewal thereof if:

a. The licensee has made a material false statement or concealed a material fact in connection with his application for the license or any renewal thereof;

b. The licensee has been convicted of a crime;

c. The licensee has failed to comply with any of the provisions of this act or any of the rules and regulations of the director establishing instructional standards of procedure; or

d. The licensee has been guilty of fraud or fraudulent practices in relation to securing for himself or another a license to drive a motor vehicle or motorcycle.

The director or any employee of the Division of Motor Vehicles deputized by him may suspend or revoke a motorcycle safety education instructor endorsement to an instructor's license issued under section 5 of P.L.1951, c.216 (C.39:12-5) or refuse to issue renewal thereof if:

a. The licensee has made a material false statement or concealed a material fact in connection with his application for the endorsement or renewal thereof;

b. The licensee is disqualified under one of the provisions of section 2 of P.L.1991, c.452 (C.27:5F-37); or

c. The licensee has failed to comply with any of the provisions of this act or any of the rules and regulations of the director establishing instructional standards of procedure.

11. Section 9 of P.L.1951, c.216 (C.39:12-9) is amended to read as follows:

C.39:12-9 Renewal no bar to revocation or suspension.

9. Notwithstanding the renewal of a license, the director may revoke or suspend such license or endorsement for causes and violations, as prescribed by this act, occurring during any prior license period.

12. Section 10 of P.L.1951, c.216 (C.39:12-10) is amended to read as follows:

C.39:12-10 Hearings, notice, subpoenas.

10. Every applicant or licensee shall be entitled to a hearing, before his application for a license, an endorsement or a renewal thereof is refused or his license or endorsement is revoked, and shall be given due notice thereof. The sending of a notice of a hearing by registered mail to the last known address of a licensee or applicant ten days prior to the date of the hearing shall be deemed due notice. The director, or the person deputized by him to conduct a hearing, shall have power to subpoena witnesses, administer oaths to witnesses and take testimony of any person or cause his deposition to be taken. A subpoena issued under the authority of this section shall be served in the same manner as a subpoena issued out of the Superior Court. Witnesses subpoenaed hereunder shall be entitled to the same fees and mileage as are allowed in civil actions in courts of record.

13. This act shall take effect on the first day of the sixth month following enactment.

Approved January 18, 1992.

CHAPTER 453

AN ACT concerning indirect apportionment of heating costs in multiple dwellings and supplementing P.L.1967, c.76 (C.55:13A-1 et seq.).

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

C.55:13A-7.8 Indirect apportionment of heating costs.

1. As used in this act, "indirect apportionment of heating costs" in a multiple dwelling means the charging to each dwelling unit within that multiple dwelling of a portion of the heating costs for the multiple dwelling as a whole on the basis of any method or device other than direct measurement of fuel or current consumption by separate metering devices, approved by the Board of Public Utilities pursuant to R.S.48:2-25, for each such dwelling unit.

C.55:13A-7.9 Method or device, approval, requirements.

2. a. Any method or device used, or intended to be used, for the indirect apportionment of heating costs in a multiple dwelling shall be subject to approval by the commissioner.

b. Except as provided in section 4 of this act, on and after the effective date of this act no method or device of measurement or calculation for the purpose of indirect apportionment of heating costs shall be installed or employed until the commissioner has certified, upon the basis of evidence and documentation presented in accordance with rules adopted pursuant to section 3 of this act, that:

(1) the method and any device proposed to be employed for that purpose are reliable and accurate;

(2) a schedule of inspection and maintenance sufficient to ensure the continued reliability and accuracy of the system will be maintained;

(3) the method of calculation and apportionment will result in an equitable distribution of heating costs among the dwelling units of the multiple dwelling upon the basis of actual usage;

(4) the system will incorporate a provision of individual thermostatic controls permitting heat usage in each dwelling unit to be varied by the tenants thereof;

(5) billing of heating costs to each dwelling unit shall include, for the period covered by each such billing, a statement of the actual fuel or current costs incurred during that period for the entire multiple dwelling and of the proportion thereof apportioned to each dwelling unit;

(6) no costs other than those for fuel or current shall be apportioned under this method.

c. Regulations adopted by the commissioner under authority of this act shall require adequate certification of the performance of inspection and maintenance pursuant to paragraph (2) of subsection b. of this section. Failure to maintain a required schedule of maintenance and inspection, or to correct promptly any failure or malfunction in the system of indirect apportionment of heating costs shall constitute a violation of the act to which this act is a supplement.

C.55:13A-7.10 Rules, regulations.

3. The Commissioner of Community Affairs shall adopt and 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 effectuate the provisions and purposes of this act.

C.55:13A-7.11 Existing systems, use.

4. Notwithstanding the provisions of section 2 of this act, in any multiple dwelling where a system of indirect apportionment of heating costs is in use upon the effective date of this act, that system may continue in use pending application for and issuance of approval by the commissioner, for not more than six months following that effective date.

5. This act shall take effect on the 90th day next following the date of enactment.

Approved January 18, 1992.

CHAPTER 454

AN ACT concerning bonds of contractors on public works and improvements and amending N.J.S.2A:44-143.

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

1. N.J.S.2A:44-143 is amended to read as follows:

Additional bond for payment of claims for labor, material, etc.; waiver, surety's obligation.

2A:44-143. a. When public buildings or other public works or improvements are about to be constructed, erected, altered or repaired under contract, at the expense of the State or any county, municipality or school district thereof, the board, officer or agent contracting on behalf of the State, county, municipality or school district, shall require the usual bond, as provided for by law, with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors, for all labor performed or materials, provisions, provender or other supplies, teams, fuels, oils, implements or machinery used or consumed in, upon, for or about the construction, erection, alteration or repair of such buildings, works or improvements.

When such contract is to be performed at the expense of the State and is entered into by the Director of the Division of Building and Construction or State departments designated by the Director of the Division of Building and Construction, the director or the State departments may: (1) establish for that contract the amount of the bond at any percentage, not exceeding 100%, of the amount bid, based upon the director's or department's assessment of the risk presented to the State by the type of contract, past experience with a particular contractor and other relevant factors, and (2) waive the bond requirement of this section entirely if the contract is for a sum not exceeding $100,000.

b. A surety's obligation shall not extend to any claim for damages based upon alleged negligence that resulted in personal injury, wrongful death, or damage to real or personal property, and no bond shall in any way be construed as a liability insurance policy. Nothing herein shall relieve the surety's obligation to guarantee the contractor's performance of all conditions of the contract, including the maintenance of liability insurance if and as required by the contract. Only the obligee named on the bond, and any subcontractor performing labor or any subcontractor or materialman providing materials for the construction, erection, alteration or repair of the public building, work or improvement for which the bond is required pursuant to this section, shall have any claim against the surety under the bond.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 455

AN ACT concerning dam restoration and appropriating monies therefor.

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

1. The Legislature finds and declares that as a result of serious dam failures in the 1970s, the "National Dam Safety Act" instituted a United States Army Corps of Engineers' program to inspect and catalogue the nation's dams; that 389 of New Jersey's largest dams were inspected during that decade; that some 1,600 dams exist in this State, most of which have never been inspected or studied by engineers for structural integrity; that in 1990 the Department of Environmental Protection adopted new dam regulations with a primary purpose of ensuring the protection of areas below dams from the consequences of dam failure; that the value of dams in the maintenance of water bodies, water quality, wetland preservation, recreation, and wildlife habitat has not been adequately emphasized or addressed in the establishment of a priority list for dam restoration funding; and that funds for dam restoration have been exhausted while a need therefor remains unmet.

2. There is appropriated from the "Natural Resources Fund" created pursuant to the "Natural Resources Bond Act of 1980," P.L.1980, c.70, to the Department of Environmental Protection, the sum of $1,710,168 of the amounts paid to the fund pursuant to section 2 of P.L.1981, c.29, which monies shall be used to provide matching grants to local government units that own high hazard dams and low-interest loans to private owners of high hazard dams for engineering studies thereof in compliance with R.S.58:4-1 et seq. Of the monies appropriated pursuant to this section, 30 percent shall be for low-interest loans to private dam owners and 70 percent shall be for matching grants to public dam owners.

3. a. The Department of Environmental Protection shall base the award of matching grants in part on the level of matching funds, but shall not require a local government unit to provide more than a 50 percent match, and shall base the award of grants and loans in part on the ecological and recreational value of the natural resource created by the dam, and the impact of the loss of the

dam and its water body on the natural environment and on recreational opportunities in the area.

b. A high hazard dam that is jointly owned by a local government unit and a private entity shall be considered a publicly-owned dam for the purpose of receiving grants pursuant to this act.

c. Loans made to private owners of high hazard dams pursuant to this act shall bear interest at a rate fixed by the State Treasurer, which rate shall not exceed 2 percent per year for a term of not more than five years.

d. A high hazard dam owned by a private water purveyor, or a high hazard dam located on a site that is on the National Priorities List of hazardous discharge sites adopted by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 42 U.S.C. §9601 et seq., shall not be eligible for funding pursuant to this act.

4. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P.L.1980, c.70.

5. This act shall take effect immediately and grants and loans may be made pursuant to this act for engineering studies undertaken on or after January 1, 1991.

Approved January 18, 1992.

CHAPTER 456

AN ACT concerning remediation of contaminated potable water supplies, amending and supplementing P.L.1988, c.106, and making an appropriation.

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

1. Section 1 of P.L.1988, c.106 (C.58:12A-22) is amended to read as follows:

C.58:12A-22 Water Supply Replacement Trust Fund.

1. a. There is established in the Department of Environmental Protection a non-lapsing revolving fund to be known as the

"Water Supply Replacement Trust Fund," hereinafter referred to as the fund. The department shall administer the fund, and monies in the fund shall be used to (1) provide loans to individuals, municipalities or municipally-owned or privately-owned public water systems as defined in section 3 of P.L.1977, c.224 (C.58:12A-3) for the purposes of providing interim or permanent alternate water supplies to persons whose principal source of potable water is contaminated or is threatened with contamination by hazardous substances as identified by the department, or fails to meet the State primary drinking water standards contained in regulations developed pursuant to this act, or fails to meet a standard for sodium, chlorine, iron, or manganese established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), and (2) provide funds to the department to conduct feasibility studies to determine appropriate remedies for contaminated potable water supplies, including the evaluation of water treatment systems, to conduct confirmatory tests to determine the presence of hazardous substances in potable water supplies, to study the extent to which water supplies are contaminated or are threatened by contamination with hazardous substances, to develop recommendations for remediating contaminated or threatened water supplies, and to defray administrative costs incurred by the department in implementing the provisions of this act. Payments of principal and interest on loans issued under the authority of this act shall be deposited in the fund, and shall remain available for further disbursements as new loans to be awarded pursuant to this act. Any monies deposited in the "Water Supply Replacement Trust Fund" are hereby appropriated to the Department of Environmental Protection to carry out the purposes of this act.

b. Loans made to local government units pursuant to this act shall bear interest at a rate fixed by the State Treasurer, which rate shall not exceed 2 percent per year for a term of not more than 20 years.

c. As used in this act, "hazardous substance" means any substance defined as a hazardous substance by the Department of Environmental Protection pursuant to rules and regulations adopted pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b).

C.58:12A-22.2 Water Supply Remediation sub-account.

2. a. There is established in the "Water Supply Replacement Trust Fund" established pursuant to section 1 of P.L.1988, c.106 (C.58:12A-22) a Water Supply Remediation sub-account.

b. Of the monies appropriated to the Water Supply Remediation sub-account pursuant to section 6 of P.L.1991, c.456, $500,000 shall be used by the Department of Environmental Protection for the evaluation of water treatment systems, and the Department of Community Affairs to administer the loan program established pursuant to section 3 of P.L.1991, c.456 (C.58:12A-22.3).

c. Any owner of a single family residence who has conducted a test of the potable water supply used by the occupants of the single family residence, the results of which indicate a violation of a primary drinking water standard or a violation of a standard for sodium, chlorine, iron, or manganese, established by the department pursuant to section 4 of this amendatory and supplementary act, may apply for a loan pursuant to section 3 of this amendatory and supplementary act.

C.58:12A-22.3 NJHMFA loans to homeowners.

3. a. Of the amount appropriated to the Water Supply Remediation sub-account pursuant to section 6 of P.L.1991, c.456, $3,500,000 is allocated to the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) and dedicated for the purposes of providing low interest loans to owners of single family residences, whose source of potable water violates primary drinking water standards, or violates a standard for sodium, chlorine, iron, or manganese established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), to provide an interim or permanent alternative potable water supply or adequate and appropriate treatment technology.

b. The New Jersey Housing and Mortgage Finance Agency shall establish a program to provide the loans authorized pursuant to this section, which shall include, but need not be limited to, funding priorities based on the priority system developed by the Department of Environmental Protection pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4). The loans issued pursuant to this section shall bear interest of not more than 2 percent per year, and shall be for a term of not more than five years. The maximum amount for any single loan shall be $10,000. Loan applicants shall provide certification from the Department of Environmental Protection or from a municipal or regional health agency certified pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) of the contamination or the threat of contamination when applying for loans on forms prescribed by the agency.

C.58:12A-22.4 DEP water standards.

4. The Department of Environmental Protection shall establish standards for sodium, chlorine, iron, and manganese for the purpose of awarding loans to owners of single family residences whose source of potable water violates those standards. The department shall develop a priority system, based on the nature and extent of the human health or environmental danger posed by a violation of a primary drinking water standard or a standard adopted pursuant to this section, for use by the New Jersey Housing and Mortgage Finance Agency in making low interest rate loans in accordance with section 3 of P.L.1991, c.456 (C.58:12A-22.3).

C.58:12A-22.5 Homeowner loans repaid by spill compensation claims.

5. An owner of a single family residence eligible for financial assistance pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), who receives a loan from the Water Supply Remediation sub-account pursuant to P.L.1991, c.456 (C.58:12A-22.2 et al.) shall submit a claim against the "New Jersey Spill Compensation Fund," created pursuant to section 10 of P.L.1976, c.141 (C.58:10-23.11i), in the amount of the loan. Any amount paid by the "New Jersey Spill Compensation Fund" to a person submitting a claim pursuant to this section shall be utilized to repay the loan within 7 days of receipt of the payment.

6. There is appropriated to the Water Supply Remediation sub-account, established pursuant to section 2 of P.L.1991, c.456 (C.58:12A-22.2), the sum of $4,000,000 from the "Clean Waters Fund" established pursuant to P.L.1976, c.92 from amounts in the fund received as reimbursements for emergency water supply benefits derived from expenditures made pursuant to P.L.1981, c.28.

7. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 457

AN ACT ratifying the Interstate Compact on Industrialized/Modular Buildings and supplementing Title 52 of the Revised Statutes.

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

ARTICLE I. FINDINGS AND DECLARATION OF POLICY

C.32:33-1 Findings and declaration of policy.

1. a. The compacting states find that:

(1) Industrialized/modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.

(2) The regulation of industrialized/modular buildings varies from state to state and locality, which creates confusion and burdens state and local building officials and the industrialized/modular building industry.

(3) Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized/modular buildings, restricts market access and discourages the development and incorporation of new technologies.

b. It is the policy of each of the compacting states to:

(1) Provide the states which regulate the design and construction of industrialized/modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.

(2) Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in Section 572 of the Housing and Community Development Act of 1987, Pub.L.100-242, including development of model standards for modular housing construction, such that design and performance will insure quality, durability and safety; and will be in accordance with cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

ARTICLE II. DEFINITIONS

C.32:33-2 Definitions.

2. As used in this compact, unless the context clearly requires otherwise:

"Commission" means the Interstate Industrialized/Modular Buildings Commission.

"Industrialized/modular building" means any building which is of closed construction; that is, constructed in such a manner that concealed parts or processes of manufacture cannot be inspected

at the site without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities off the building site for installation, or assembly and installation on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing which is factory-built single-family and multifamily housing, including closed wall panelized housing, and other modular nonresidential buildings. "Industrialized/modular building" does not include any structure subject to the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.).

"Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance with the model rules and regulations for industrialized/modular buildings, as authorized in Article VIII, section 8, shall be accepted by the state and its subdivisions to permit installation and use of industrialized/modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized/modular building manufacturers within that state to comply with the model rules and regulations for industrialized/modular buildings.

"Model rules and regulations for industrialized/modular buildings" means the construction standards adopted by the commission, after consideration of any recommendations from the rules development committee, which govern the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

"State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Uniform administrative procedures" means the procedures adopted by the commission, after consideration of any recommendations from the rules development committee, which state and local officials and other parties in one state will utilize to assure state and local officials and other parties in other states of the substantial compliance of industrialized/modular building construction with the construction standard of requirements of those other states; to assess

the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.

ARTICLE III. CREATION OF COMMISSION

C.32:33-3 Creation of commission.

3. The compacting states hereby create the Interstate Industrialized/Modular Buildings Commission. The commission shall be a body corporate of each compacting state and an agency thereof. The commission shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

ARTICLE IV. SELECTION OF COMMISSIONERS

C.32:33-4 Selection of commissioners.

4. The commission shall be selected as follows:

a. As each state becomes a compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized/modular buildings or, if a state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

b. Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which the commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

c. When three state commissioners have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of industrial- or commercial-use industrialized/modular buildings. When six state commissioners have been appointed in the manner described, the state commissioners shall select a second additional commissioner who shall be a representative of consumers of industrialized/modular buildings. With each addition of three state commissioners, the state commissioners shall appoint one additional representative commissioner, alternating between a representative of manufacturers of industrialized/mod-

ular buildings and consumers of industrialized/modular buildings. The ratio between state commissioners and representative commissioners shall be three to one.

d. In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added representative commissioner as necessary to maintain a ratio of state commissioners to representative commissioners of three to one.

e. Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and a three to one ratio is maintained. Unless provided otherwise, the representative commissioners shall have the same authority and responsibility as the state commissioners.

f. In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. This commissioner shall not vote on matters before the commission. The commissioner shall be appointed by the President of the United States, or in another manner as may be provided by Congress.

ARTICLE V. VOTING

C.32:33-5 Voting.

5. Each commissioner, except the commissioner representing the United States government, shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

ARTICLE VI. ORGANIZATION AND MANAGEMENT

C.32:33-6 Organization and management.

6. a. The commission shall:

(1) Elect annually, from among its members, a chairman, a vice chairman and a treasurer, and select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties and compensation of the secretariat.

(2) Adopt a seal.

(3) Adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations.

(4) Establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

(5) Annually report to the governor and legislature of each compacting state regarding its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

b. The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

ARTICLE VII. COMMITTEES

C.32:33-7 Committees.

7. The commission shall establish such committees as it deems necessary, including, but not limited to, the following:

a. An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee shall ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from those commissioners who are representatives of the governor of their respective states.

b. A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than 21 members. Committee members shall include state building regulatory officials; manufacturers of industrialized/modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties, in one state, may utilize to assure state and local officials, and other parties, in

other states, of the substantial compliance of industrialized/modular building construction with the construction standard requirements of those other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The committee shall submit its recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized/modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

c. Any other advisory, coordinating or technical committees, membership of which may include private persons, public officials, associations or organizations. These committees may consider any matter of concern to the commission.

d. Any additional committees that the commission's bylaws may provide for.

ARTICLE VIII. POWER AND AUTHORITY

C.32:33-8 Power and authority.

8. In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

a. Collect, analyze and disseminate information relating to industrialized/modular buildings.

b. Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized/modular buildings.

c. Assist and support committees and organizations which promulgate, maintain and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized/modular buildings.

d. Adopt and amend uniform administrative procedures and model rules and regulations for industrialized/modular buildings.

e. Make recommendations to compacting states for the purpose of bringing those states' laws, codes, rules and regulations and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings, provided that these recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.

f. Assist and support the compacting states with monitoring of plan review and inspection programs, which will assure that the compacting states have the benefit of uniform industrialized/modular building plan review and inspection programs.

g. Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized/modular building plan review and inspection programs.

h. Encourage and promote coordination of state regulatory action relating to manufacturers, public or private inspection programs.

i. Create and sell labels to be affixed to industrialized/modular building units, constructed in or regulated by compacting states, where these labels will evidence compliance with the model rules and regulations for industrialized/modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.

j. Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized/modular buildings constructed in one compacting state and sited in another compacting state.

k. Borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm or corporation.

l. Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

m. Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real or personal property and any interest therein.

n. Enter into contracts and agreements, including but not limited to, interim reciprocal agreements with noncompacting states.

ARTICLE IX. FINANCE

C.32:33-9 Finance.

9. a. The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

b. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The total amount of appropriations requested under the budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decennial federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized/modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

c. The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels, provided that the commission takes specific action setting aside these funds prior to incurring any obligation to be met in whole or in part in this manner. Except where the commission makes use of funds available to it by donations, grants or sale of labels, the commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

d. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

e. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

f. Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of

accounts by or behalf of any government contributing to the support of the commission.

ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

C.32:33-10 Entry into force and withdrawal.

10. a. This compact shall enter into force when enacted into law by any three states. Therefore, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

b. Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of that withdrawal.

ARTICLE XI. RECIPROCITY

C.32:33-11 Reciprocity.

11. If the commission determines that the standards for industrialized/modular buildings prescribed by statute, rule or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized/modular buildings, and that these state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized/modular buildings approved by a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

ARTICLE XII. EFFECT ON OTHER LAWS AND JURISDICTION

C.32:33-12 Effect on other laws and jurisdiction.

12. Nothing in this compact shall be construed to:

a. Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact is expressly conferred upon another agency or body.

b. Supersede or limit the jurisdiction of any court of the United States.

ARTICLE XIII. CONSTRUCTION AND SEVERABILITY

C.32:33-13 Construction and severability.

13. The compact shall be liberally construed so as to effectuate the purpose thereof. The provisions of this compact shall be severable

and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

14. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 458

AN ACT concerning the investment powers of local units and boards of education and amending P.L.1977, c.177 and P.L.1977, c.396.

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

1. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to read as follows:

C.18A:20-37 Purchase of certain types of securities.

1. When authorized by resolution adopted by a majority vote of all its members the board of education of any school district may use moneys, which may be in hand, for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the school district:

a. Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America, including securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the "Investment Company Act of 1940," 54 Stat. 847 (15 U.S.C. §80a-1 et seq.), purchased and redeemed only through the use of National or State banks located within this State, if the portfolio of that investment company or invest-

ment trust is limited to bonds or other obligations of the United States of America, bonds or other obligations guaranteed by the United States of America and repurchase agreements fully collateralized by bonds or other obligations of the United States of America or bonds or other obligations guaranteed by the United States of America, which collateral shall be delivered to or held by the investment company or investment trust, either directly or through an authorized custodian;

b. Bonds of any Federal Intermediate Credit Bank, Federal Home Loan Bank, Federal Land Bank, Federal National Mortgage Associates or of any United States Bank for Cooperatives which have a maturity date not greater than 12 months from the date of purchase; or

c. Bonds or other obligations of the school district.

2. Section 8 of P.L.1977, c.396 (C.40A:5-15.1) is amended to read:

C.40A:5-15.1 Securities which may be purchased by local units.

8. Securities which may be purchased by local units. When authorized by resolution adopted by a majority vote of all its members, the governing body of any local unit may use moneys which may be in hand for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the local unit:

a. Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America, including securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the "Investment Company Act of 1940," 54 Stat. 847 (15 U.S.C. §80a-1 et seq.), purchased and redeemed only through the use of National or State banks located within this State, if the portfolio of that investment company or investment trust is limited to bonds or other obligations of the United States of America, bonds or other obligations guaranteed by the United States of America and repurchase agreements fully collateralized by bonds or other obligations of the United States of America or bonds or other obligations guaranteed by the United States of America, which collateral shall be delivered to or held by the investment company or investment trust, either directly or through an authorized custodian;

b. Bonds of any Federal Intermediate Credit Bank, Federal Home Loan Bank, Federal Land Bank, Federal National Mortgage Associates or of any United States Bank for Cooperatives which have a maturity date not greater than 12 months from the date of purchase;

c. Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located; or

d. Bonds or other obligations, having a maturity date not more than 12 months from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by local units.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 459

AN ACT concerning certain motor vehicle franchises and amending and supplementing P.L.1977, c.84.

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

1. Section 1 of P.L.1977, c.84 (C.56:10-13) is amended to read as follows:

C.56:10-13 Definitions.

1. For the purposes of this act:

"Motor vehicle franchisor" means a franchisor engaged in the business of manufacturing or assembling new motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles, and his motor vehicle distributors;

"Motor vehicle franchisee" means every franchisee actively engaged in the business of buying, selling or exchanging new motor vehicles and who has an established place of business;

"Motor vehicle franchise" means a franchise for the marketing of new motor vehicles;

"New motor vehicle" means only a newly manufactured motor vehicle, and includes all vehicles propelled otherwise than by muscular power, and motorcycles, trailers and tractors, excepting: (1) those vehicles as run only upon rails or tracks and motorized bicycles, and buses, including school buses; and (2) those motor vehi-

cles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.

C.56:10-13.1 Violations concerning relocations.

2. It shall be a violation of the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) for any motor vehicle franchisor, directly or indirectly, through any officer, agent or employee, to prohibit or restrict the relocation of a motor vehicle franchise unless:

a. the relocation will leave that franchisor without representation in the primary market area of the relocating motor vehicle franchisee;

b. the relocation will have a material adverse effect on an existing motor vehicle franchisee;

c. the place of business to which the motor vehicle franchisee proposes to relocate does not substantially satisfy the reasonable standards for franchise facilities established by the motor vehicle franchisor in writing and made available to its franchisees; or

d. the relocation is determined to be injurious pursuant to P.L.1982, c.156 (C.56:10-16 et seq.).

C.56:10-13.2 Repurchase of certain inventory and equipment on termination or nonrenewal.

3. Within 90 days of the termination, cancellation or nonrenewal of a motor vehicle franchise as provided for in section 5 of P.L.1971, c.356 (C.56:10-5), or a termination or cessation of a part of the franchisor's business operations throughout the United States, which is not a part of any change in the ownership, operation or control of all or any part of the franchisor's business, the motor vehicle franchisor shall repurchase from the motor vehicle franchisee:

a. any unused, undamaged, and unsold inventory, parts, supplies, and accessories acquired from the franchisor or a source approved or recommended by the franchisor at the franchisee's net acquisition cost therefor, plus the franchisee's cost of handling, packing, loading and transporting the inventory, parts, supplies and accessories for return to the franchisor. For the purposes of this subsection, inventory, parts, supplies and accessories used by the franchisee or its employees for display, demonstration or other marketing purposes shall be deemed to be unused or unsold.

b. any special tools, equipment, furnishings, and signs which were recommended or required by the franchisor, at:

(1) the franchisee's net acquisition cost if the item was acquired in the 12 months immediately preceding the effective date of the termination, cancellation or nonrenewal;

(2) the greater of the fair market value or 75% of the franchisee's net acquisition cost if the item was acquired more than 12 but less than 24 months immediately preceding the effective date of the termination, cancellation or nonrenewal;

(3) the greater of the fair market value or 50% of the franchisee's net acquisition cost if the item was acquired more than 24 but less than 36 months immediately preceding the effective date of the termination, cancellation or nonrenewal;

(4) the greater of the fair market value or 25% of the franchisee's net acquisition cost if the item was acquired more than 36 but less than 60 months immediately preceding the effective date of the termination, cancellation or nonrenewal; or

(5) the fair market value if the item was acquired more than 60 months immediately preceding the effective date of the termination, cancellation or nonrenewal; plus the franchisee's cost of handling, packing, loading and transporting the item for return to the franchisor.

C.56:10-13.3 Violations related to termination or nonrenewal.

4. a. It shall be a violation of the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) for any motor vehicle franchisor, directly or indirectly, through any officer, agent or employee, to terminate, cancel or fail to renew a motor vehicle franchise as the result of:

(1) any change in the ownership, operation or control of all or any part of the franchisor's business, whether by sale or transfer of the assets, corporate stock or other equity interest; assignment; merger; consolidation; combination; reorganization; restructuring; redemption; operation of law or otherwise; or

(2) the termination, suspension or cessation of all or any part of the franchisor's business operations, other than a termination or cessation of a part of the franchisor's business operations throughout the United States which is not part of any change in the ownership, operation or control of all or any part of the franchisor's business; unless the franchisor complies with the provisions of subsections b., c., d. and e. of this section or unless the franchisor, or another motor vehicle franchisor, pursuant to an agreement with the franchisor, offers the franchisee a replacement motor vehicle franchise which takes effect no later than the date of the termination, cancellation or nonrenewal of the franchisee's existing motor vehicle franchise.

b. Within 90 days of the effective date of the termination, cancellation or nonrenewal, the motor vehicle franchisor shall compensate

the motor vehicle franchisee in an amount at least equivalent to the fair market value of the motor vehicle franchise on

(1) the date the franchisor announces the action which results in the termination, cancellation or nonrenewal; or

(2) the date on which the notice of termination, cancellation or nonrenewal is issued, whichever amount is higher.

c. The franchisor shall authorize the franchisee to continue servicing and supplying parts, including service and parts pursuant to a warranty issued by the franchisor, for any goods or services marketed by the franchisee pursuant to the motor vehicle franchise for a period of not less than five years from the effective date of the termination, cancellation or nonrenewal and shall continue to reimburse the franchisee for warranty parts and service in an amount and on terms no less favorable than those in effect prior to the termination, cancellation or nonrenewal and in accordance with section 3 of P.L.1977, c.84 (C.56:10-15).

d. The franchisor shall continue to supply the franchisee with replacement parts for any goods or services marketed by the franchisee pursuant to the motor vehicle franchise for a period of not less than five years from the effective date of the termination, cancellation or nonrenewal, at the same price and terms as the franchisor supplies them to the remaining franchisees of the franchisor, or, if there are no such remaining franchisees, at a price and on terms no less favorable than those in effect prior to the termination, cancellation or nonrenewal.

e. If the franchisee continues to service motor vehicles and sell parts after the termination, cancellation or nonrenewal, as provided for in subsections c. and d. of this section, the compensation paid to the franchisee pursuant to subsection b. of this section shall be reduced to the extent, if any, of the fair market value of such rights as of the effective date of the termination, cancellation or nonrenewal.

C.56:10-13.4 Discontinuation of a series or line, effective termination.

5. For the purposes of sections 3 and 4 of this 1991 amendatory and supplementary act, and section 5 of the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-5), the termination, cancellation or discontinuation of a series, line, brand or class of new motor vehicle marketed by a motor vehicle franchisor as a distinct series, line, brand or class shall be deemed to be the termination, cancellation or nonrenewal of the motor vehicle franchise of a motor vehicle franchisee holding a franchise which

includes that series, line, brand or class, even if that series, line, brand or class of new motor vehicle is part of a motor vehicle franchise which includes other series, lines, brands or classes of new motor vehicles. Notwithstanding the provisions of this section, a franchisor may change, add or delete models, specifications, model names, numbers or identifying marks or similar characteristics of the new motor vehicles it markets, if those changes, additions or deletions do not result, directly or indirectly, in the termination, cancellation or discontinuation of a distinct series, line, brand or class of new motor vehicle.

C.56:10-13.5 Interest on overdue payments.

6. If a motor vehicle franchisor fails to make any payment required by this 1991 amendatory and supplementary act within the time specified for payment, interest shall be added to that payment at the rate of 12% per annum from the date payment was due.

7. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read as follows:

C.56:10-15 Reimbursement for services or parts under warranty or law.

3. If any motor vehicle franchise shall require or permit motor vehicle franchisees to perform services or provide parts in satisfaction of a warranty issued by the motor vehicle franchisor:

a. The motor vehicle franchisor shall reimburse each motor vehicle franchisee for such services as are rendered and for such parts as are supplied, in an amount equal to the prevailing retail price charged by such motor vehicle franchisee for such services and parts in circumstances where such services are rendered or such parts supplied other than pursuant to warranty; provided that such motor vehicle franchisee's prevailing retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor vehicle franchisor for identical merchandise or services in the geographic area in which the motor vehicle franchisee is engaged in business.

b. The motor vehicle franchisor shall not by agreement, by restrictions upon reimbursement, or otherwise, restrict the nature and extent of services to be rendered or parts to be provided so that such restriction prevents the motor vehicle franchisee from satisfying the warranty by rendering services in a good and workmanlike manner and providing parts which are required in accordance with generally accepted standards. Any such restriction shall constitute a prohibited practice hereunder.

c. The motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection a. of this section, without deduction, for services performed on, and parts supplied for, a motor vehicle by the motor vehicle franchisee in good faith and in accordance with generally accepted standards, notwithstanding any requirement that the motor vehicle franchisor accept the return of the motor vehicle or make payment to a consumer with respect to the motor vehicle pursuant to the provisions of P.L.1988, c.123 (C.56:12-29 et seq.).

8. This act shall take effect immediately and sections 2 through 6 shall apply only to motor vehicle franchises granted on or after the effective date and, to motor vehicle franchises granted prior to that date, upon the amendment or renewal of that existing franchise on or after the effective date.

Approved January 18, 1992.

CHAPTER 460

AN ACT concerning the relocation of certain motor vehicle franchises and amending P.L.1982, c.156.

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

1. Section 5 of P.L.1982, c.156 (C.56:10-20) is amended to read as follows:

C.56:10-20 Relocations permitted.

5. The provisions of sections 3 and 4 of P.L.1982, c.156 (C.56:10-18 and 56:10-19) notwithstanding, a motor vehicle franchisor may:

a. Permit an existing franchisee to relocate his franchise within 2 miles of the franchisee's existing franchise location, except that a franchise may not be relocated pursuant to this subsection unless at least five years have elapsed since any previous relocation pursuant to this subsection;

b. Reopen or reactivate a franchise or business which has not been in operation for a period of 1 year or less at a site within 2 miles of the prior site; or

c. Permit the purchaser of a controlling interest in the shares or substantially all of the operating assets of an existing franchise to relocate the place of business of the franchise within 2 miles of the previously approved franchise location within 180 days of the date of purchase.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 461

AN ACT concerning the licensing of blood banks and amending P.L.1963, c.33.

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

1. Section 3 of P.L.1963, c.33 (C.26:2A-4) is amended to read as follows:

C.26:2A-4 License required, expiration, fees, display of license.

3. a. No person shall hereafter operate or conduct a blood bank in this State unless duly licensed by the commissioner under the provisions of this act. The licenses required by this act shall be in addition to any other license or permit required by any local board of health or other body exercising the powers of such a board in any municipality in this State.

All such licenses shall expire on December 31 in each calendar year and application for renewal therefor shall be made on or before November 10 on forms provided by the department. A fee necessary to conduct blood bank licensure operations, as provided in subsection b. of this section, shall accompany the original application for a license and each renewal thereof. The original or a certified copy of the license shall be conspicuously displayed by the licensee at the premises occupied as a blood bank.

b. (1) The fee for transfusion services shall be based on the number of transfusions performed at a facility and shall range from a minimum fee of $200 for a facility which performs up to

1,000 transfusions to a maximum fee of $700 for a facility which performs more than 5,000 transfusions a year;

(2) The fee for collection centers shall be based on the number of collections made by a facility and shall range from a minimum fee of $250 for a facility which makes up to 200 collections to a maximum fee of $1,900 for a facility which makes more than 50,000 collections a year;

(3) The fee for other blood bank services shall be as follows:

Collection Site -	$100
Broker -	$200
Industrial Blood Bank -	$200
Home Transfusion Service -	$200.

The commissioner may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), periodically increase the fees to reflect increased State costs in blood bank licensure operations.

c. The income received from licensure and renewal fees pursuant to this section shall be appropriated to the department to effectuate the purposes of P.L.1963, c.33 (C.26:2A-2 et seq.).

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 462

AN ACT concerning certain producers of record and amending P.L.1983, c.65 and P.L.1990, c.8.

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

1. Section 26 of P.L.1983, c.65 (C.17:30E-14) is amended to read as follows:

C.17:30E-14 Procedures for voluntary coverage.

26. a. Within 45 days of the effective date of P.L.1988, c.119 (C.17:28-1.4 et al.), the commissioner shall, in the plan of operation, establish procedures to govern the voluntary writing of applicants and association insureds without the utilization of the association.

These procedures shall include criteria identifying drivers who should be eligible for coverage in the voluntary market. Applicants and association insureds meeting these criteria shall be subject to assignment by the association to member companies, pursuant to an equitable apportionment procedure established in the plan of operation. The procedure shall give due consideration to the increase or decrease in the volume of private passenger automobile non-fleet exposures voluntarily written by member companies in this State since January 1, 1984.

b. (1) Pursuant to the procedures established in the plan of operation under subsection a. of this section, the commissioner shall establish a voluntary market quota, which shall not be less than 60% of the aggregate number of private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State on the effective date of P.L.1988, c.119 (C.17:28-1.4 et al.). The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the 12-month period beginning 60 days after the effective date of P.L.1988, c.119 (C.17:28-1.4 et al.).

(2) Within 30 days of the effective date of P.L.1990, c.8 (C.17:33B-1 et al.), the commissioner shall prescribe a second quota, which shall take effect immediately upon adoption by the commissioner and which shall not be less than 68% of the aggregate number of private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State on or before October 1, 1990. The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the period described in this paragraph.

(3) (Deleted by amendment, P.L.1990, c.8.)

(4) (Deleted by amendment, P.L.1990, c.8.)

c. In the event that any of the quotas established by the commissioner pursuant to subsection b. of this section have not been met by the end of any applicable period, the commissioner shall direct the association to assign the balance of the exposures needed to meet the applicable quota to member companies in a manner consistent with the apportionment procedure established pursuant to subsection a. of this section. A member company which exceeded its apportionment share for the 12-month period prescribed pursuant to paragraph (1) of subsection b. of this section shall receive credit for the excess against the quota imposed pursuant to paragraph (2) of subsection b. of this section.

d. (Deleted by amendment, P.L.1990, c.8.)

e. For the purposes of this section, any exposure written in the voluntary market by an affiliate of the insurer to which an apportioned share has been assigned shall be credited against that share.

f. The total number of exposures written in the voluntary market, net of exposures cancelled or nonrenewed, by a member company at the end of the applicable period shall be utilized in determining whether the member company has written its apportionment share in the voluntary market for purposes of complying with any quotas established by the commissioner pursuant to this section.

g. The commissioner may excuse a member company from meeting any of its obligations under this section that he determines would result in the member company being in an unsafe or unsound condition.

h. Any member company that does not write its apportionment share of any quota established by the commissioner pursuant to subsection b. or c. of this section within the applicable time period shall be precluded from nonrenewing automobile insurance policies pursuant to section 26 of P.L.1988, c.119 (C.17:29C-7.1) during the immediately following 12-month period.

i. In addition to the requirements of subsection a. of this section, the procedures governing the increase in voluntary market volume shall:

(1) establish guidelines and criteria for determining whether a person is a qualified applicant as defined in section 15 of P.L.1983, c.65 (C.17:30E-3), and procedures for the issuance of automobile insurance through the voluntary market to persons found not to be qualified applicants for association coverage, and for the referral of persons determined not to be eligible for association coverage to alternative residual market mechanisms;

(2) include provisions ensuring that servicing carriers do not obtain any unfair advantage over other member companies in the selection of qualified applicants and association insureds to be written as voluntary business;

(3) neither prohibit nor require member companies to write association business through association producers of record, except as provided for in this paragraph.

(a) When an exposure assigned to a member company in accordance with subsection c. of this section, as a result of the failure of the member company to meet an applicable quota, is written by the member company assigned the exposure, the association producer of record shall have the right to service that business, which shall include all renewals thereof, and shall be entitled to a commission for that service in accordance with subparagraph (c) of this paragraph.

(b) The association producer of record shall retain complete control, possession and ownership of all records and renewals regarding exposures assigned pursuant to subsection c. of this section, provided, however, that the member company may maintain such records as are provided to it under the procedure established by subsection a. of this section. A member company that acquires access to records pursuant to this subparagraph shall not share any such records with any other producer or use any such records to solicit direct renewal of the business, a change in producer of record, other insurance products or any other products.

(c) The association producer of record shall be paid a commission by the member company on the business serviced by the association producer of record pursuant to this paragraph. That commission shall be paid at a percentage rate no less than that being paid by the Market Transition Facility on July 1, 1991.

(d) A copy of every notice, other than bills, and including renewal declarations, change endorsements, cancellations and reinstatements, and the corresponding payment schedules included therein, correspondence, claims checks and acknowledgements, sent to an insured by a member company with respect to business covered by this paragraph, shall be sent to the association producer of record.

(e) This paragraph shall be applicable only to exposures assigned to member companies in accordance with subsection c. of this section as a result of the failure by the member company to meet an applicable quota. This paragraph shall not constitute the grant of an agency contract by the member company to the association producer of record authorizing the association producer of record to write new business through the member company; provided, however, that the association producer of record shall have the authority to provide the usual and customary servicing of the business subject to this paragraph, including adding new and replacement vehicles and adding or changing coverages on the business.

(f) Nothing in this paragraph shall deprive an insured of the right to designate a producer of record other than the association producer of record. Upon that designation, the rights of the association producer of record under this paragraph shall terminate. Notwithstanding any provision in this paragraph, the rights of the association producer of record under this paragraph shall terminate in the event of the producer's insolvency, gross and willful misconduct, fraud or license revocation; and

(4) provide for financial disincentives to applicants who, without good cause, reapply for coverage in the association after being placed in the voluntary market.

2. Section 88 of P.L.1990, c.8 (C.17:33B-11) is amended to read as follows:

C.17:33B-11 Market Transition Facility, advisory board.

88. a. There is created a Market Transition Facility to be operated by the Commissioner of Insurance pursuant to the provisions of this section. Every insurer authorized to transact automobile insurance in this State shall be a member of the facility and shall share in its profits and losses as provided by the commissioner pursuant to the provisions of subsection d. of this section.

b. The commissioner shall, within 30 days of the effective date of P.L.1990, c.8 (C.17:33B-1 et al.), appoint a Market Transition Facility Advisory Board which shall be comprised of six members, one of whom shall represent member companies organized on a mutual basis, one of whom shall represent member companies organized on a stock basis, one of whom shall represent servicing carriers, one of whom shall represent insurance producers, one of whom shall be a qualified actuary and one of whom shall represent the public. Advisory board members shall serve for the duration of the facility or until such time as their successor is appointed. Advisory board members shall not be compensated for their services but shall be reimbursed by the facility for any necessary and reasonable expenses incurred in performance of their duties as members of the advisory board.

c. The facility shall arrange for the issuance and renewal of automobile insurance policies for the period commencing October 1, 1990 and ending September 30, 1992 pursuant to a plan of operation promulgated by the commissioner in consultation with the advisory board. The facility shall not issue or renew any policies of automobile insurance on or after October 1, 1992. The plan shall provide:

(1) The applicable levels of coverage available through the facility;

(2) That the premiums payable on policies issued by the facility shall be based on rates applicable to persons insured by the New Jersey Automobile Full Insurance Underwriting Association on September 30, 1990 but shall not incorporate the rates applicable under section 25 of P.L.1983, c.65 (C.17:30E-13) and section 22 of P.L.1988, c.119 (C.17:30E-13.1). However, the applicable rates for

those insureds who do not qualify as eligible persons as provided in section 25 of P.L.1990, c.8 (C.17:33B-13) shall be those set by the plan for the provision of automobile insurance established pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1);

(3) Procedures for the filing and approval of changes in rates applicable to policies issued or renewed by the facility;

(4) For the issuance and renewal of automobile insurance through servicing carriers under contract with the New Jersey Automobile Full Insurance Underwriting Association pursuant to the provisions of section 24 of P.L.1983, c.65 (C.17:30E-12), utilizing, at the discretion of the commissioner, the staff of the association;

(5) Procedures for the depopulation of the facility which shall provide that: on or after April 1, 1991 no more than 29% of the aggregate number of private passenger non-fleet exposures written in this State shall be written by the facility and the New Jersey Automobile Full Insurance Underwriting Association created by P.L.1983, c.65 (C.17:30E-1 et seq.); on or after October 1, 1991 no more than 20% of the aggregate number of private passenger non-fleet exposures written in this State shall be written by the facility; on or after April 1, 1992 no more than 10% of the aggregate number of private passenger non-fleet exposures written in this State shall be written by the facility; and on or after October 1, 1992, 0% of the aggregate number of private passenger non-fleet exposures written in this State shall be written by the facility. In establishing the quotas set forth above, the plan shall prescribe the number of voluntary market exposures which shall be written during each six-month period set forth in this paragraph in a manner consistent with the apportionment procedure established pursuant to subsection a. of section 26 of P.L.1983, c.65 (C.17:30E-14). In the event that any of the quotas established pursuant to this paragraph have not been met by the end of the applicable period, the commissioner shall direct the facility to assign the balance of the exposures needed to meet the applicable quota to member companies pursuant to the apportionment procedure. A member company which exceeds its apportionment share for any six-month period set forth in this paragraph shall receive credit for the excess against the following period's obligation. The commissioner may excuse a member company from meeting its obligations under the depopulation procedures if he determines that the company would be placed in an unsafe or unsound condition. When an exposure is assigned to a member company under this paragraph as a result of the failure

of the member company to meet an applicable quota, but only in such circumstances, the following shall apply:

(a) When an assigned exposure is written by the member company assigned the exposure, the facility producer of record shall have the right to service that business, which shall include all renewals thereof, and shall be entitled to a commission for that service in accordance with subparagraph (c) of this paragraph;

(b) The facility producer of record shall retain complete control, possession and ownership of all records and renewals regarding exposures assigned pursuant to this paragraph, provided, however, that the member company may maintain such records as are provided to it under the procedure established by subsection a. of section 26 of P.L.1983, c.65 (C.17:30E-14). A member company that acquires access to records pursuant to that subsection shall not share any such records with any other producer or use any such records to solicit direct renewal of the business, a change in producer of record, other insurance products or any other products;

(c) The facility producer of record shall be paid a commission by the member company on the business serviced by the facility producer of record pursuant to this paragraph. That commission shall be paid at a percentage rate no less than that being paid by the Market Transition Facility on July 1, 1991;

(d) A copy of every notice, other than bills, and including renewal declarations, change endorsements, cancellations and reinstatements, and the corresponding payment schedules included therein, correspondence, claims checks and acknowledgments, sent to an insured by a member company with respect to business covered by this paragraph, shall be sent to the facility producer of record;

(e) The procedure established in subparagraphs (a), (b), (c), (d), (e) and (f) of this paragraph shall be applicable only to exposures assigned to member companies in accordance with this paragraph as a result of the failure by the member company to meet an applicable quota. This paragraph shall not constitute the grant of an agency contract by the member company to the facility producer of record authorizing the facility producer of record to write new business through the member company; provided, however, that the facility producer of record shall have the authority to provide the usual and customary servicing of the business subject to this paragraph, including adding new and replacement vehicles and adding or changing coverages on the business; and

(f) Nothing in the paragraph shall deprive an insured of the right to designate a producer of record other than the facility producer of record. Upon that designation, the rights of the facility producer of record under this paragraph shall terminate. Notwithstanding any provision in this paragraph, the rights of the facility producer of record under this paragraph shall terminate in the event of the producer's insolvency, gross and willful misconduct, fraud or license revocation;

(6) A schedule for the payment of premiums on an installment basis. Any installment payment schedule for policies issued for a one year period shall provide for installment payments during a period of not less than nine months;

(7) That no policy issued by the facility may be cancelled for nonpayment of premium unless written notice is provided at least 15 days prior to the effective date of cancellation accompanied by the reason for cancellation. Notice shall be provided to the named insured and the producer of record at their last known addresses;

(8) Provide for notification of the named insured and the producer of record at their last known addresses no later than 15 days after the nonrenewal of a facility policy of such nonrenewal; and

(9) Such other provisions as are deemed necessary for the operation of the facility.

d. The commissioner shall apportion any profits or losses of the facility among member companies based on each company's apportionment share as determined for purposes of depopulation pursuant to subsection a. of section 26 of P.L.1983, c.65 (C.17:30E-14).

e. The facility shall be subject to the provisions of P.L.1945, c.132 (C.54:18A-1 et seq.).

3. This act shall take effect immediately and shall be retroactive to March 12, 1990.

Approved January 18, 1992.

CHAPTER 463

AN ACT authorizing the sale of certain surplus real property owned by the State.

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

1. The Department of Human Services is authorized to sell and convey all of the State's interest in $0.50^{\pm}$ acres of surplus real property located in the Borough of Roosevelt, Monmouth County. The residence is located at 40 Pine Drive, and designated as Block 2, Lot 42, on the Borough of Roosevelt tax map. The sale shall be upon terms and conditions approved by the State House Commission.

2. The proceeds of the sale of property under section 1 of this act shall be deposited in the General Fund of the State.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 464

AN ACT authorizing the sale of certain surplus real property owned by the State.

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

1. The Department of Human Services is authorized to sell and convey all of the State's interest in $12.7^{\pm}$ acres of surplus real property located in the Township of Edison, Middlesex County. The property is located on Parsonage Road and designated as Block 686, Lots 2A and 5E, and Block 688, Lot 5A on the Township of Edison tax map. The sale shall be upon terms and conditions approved by the State House Commission.

2. The proceeds of the sale of property under section 1 of this act shall be deposited in the General Fund of the State.

3. This act shall take effect immediately.

Approved January 18, 1992.

New Jersey State Library

CHAPTER 465

AN ACT concerning bicycle helmets 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.39:4-10.1 Bicycle helmets, requirements.

1. a. A person under 14 years of age shall not operate, or ride upon a bicycle as a passenger, unless that person is wearing a properly fitted and fastened bicycle helmet which meets the standards of the American National Standards Institute (ANSI Z90.4 bicycle helmet standard) or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for Use in Bicycling. This requirement shall apply to a person who rides upon a bicycle while in a restraining seat which is attached to the bicycle or in a trailer towed by the bicycle.

As used in this act, "bicycle" means a vehicle with two wheels propelled solely by human power and having pedals, handle bars and a saddle-like seat. The term shall include a bicycle for two or more persons having seats and corresponding sets of pedals arranged in tandem.

b. The director shall publish a list of bicycle helmets which meet the standards described in subsection a. of this section and shall provide for its distribution in as many locations frequented by the public as the director deems appropriate and practicable.

c. The requirement in subsection a. of this section shall apply at all times while a bicycle is being operated on any property open to the public or used by the public for pedestrian and vehicular purposes; however, a municipality may by ordinance exempt from this requirement a person operating or riding on a bicycle as a passenger when the bicycle is operated:

(1) on a road or highway closed to motor vehicle traffic and limited to pedestrian or bicycle use at all times or only during specified periods of time during which bicycles may be operated; or

(2) exclusively on a trail, route, course, boardwalk, path or other area which is set aside for the use of bicycles or for the use of pedestrians and bicycle operation is not otherwise prohibited. However, an exemption may not be granted under this paragraph for any portion of a trail, route, course, boardwalk, path or other area which is immediately adjacent to a road or highway used by motor vehicle traffic and which does not contain a barrier of suf-

ficient height and rigidity to prevent the inadvertent or deliberate entry of a bicycle operator onto the road or highway.

d. An ordinance enacted pursuant to subsection c. of this section shall specify those roads, highways, trails, routes, courses, boardwalks, paths or areas within the municipality where helmets are not required during the operation of a bicycle.

e. When a bicycle is being operated in an area where bicycle helmets are not required, the operator or a passenger, except a passenger in a restraining seat or trailer, shall dismount from the bicycle and walk whenever it is necessary to enter a crosswalk or to cross a road or highway upon which motor vehicle traffic is permitted.

C.39:4-10.2 Violations, warnings, fines; Bicycle Safety Fund.

2. a. A person who violates a requirement of this act shall be warned of the violation by the enforcing official. The parent or legal guardian of that person also may be fined a maximum of $25 for the person's first offense and a maximum of $100 for a subsequent offense if it can be shown that the parent or guardian failed to exercise reasonable supervision or control over the person's conduct. Penalties provided in this section for a failure to wear a helmet may be waived if an offender or his parent or legal guardian presents suitable proof that an approved helmet was owned at the time of the violation or has been purchased since the violation occurred.

b. All money collected as fines under subsection a. of this section shall be deposited in a nonlapsing revolving fund to be known as the "Bicycle Safety Fund." Interest earned on money deposited in the fund shall accrue to the fund. Money in the fund shall be utilized by the director to provide educational programs devoted to bicycle safety. If the director determines that sufficient money is available in the fund, he also may use, in a manner prescribed by rule and regulation, the money to assist low income families in purchasing approved bicycle helmets. For the purposes of this subsection, "low income family" means a family which qualifies for low income housing under the standards promulgated by the Council on Affordable Housing pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et seq.).

C.39:4-10.3 Buyers, renters information; sellers, lessors immunity.

3. a. A person regularly engaged in the business of selling bicycles shall provide a purchaser of a bicycle with a written explanation, either on the receipt of sale or on a separate form, of the provisions of subsections a., c. and e. of section 1 of this act and the penalties

under section 2 of this act for a violation and shall obtain the purchaser's signature indicating receipt of the information.

b. A person regularly engaged in the business of renting bicycles shall require each person seeking to rent a bicycle to provide his signature either on the rental form or on a separate form indicating (1) receipt of a written explanation of the provisions of subsections a., c. and e. of section 1 of this act and the penalties under section 2 of this act for a violation and (2) whether a person under the age of 14 years will operate the bicycle in an area where the use of a helmet is required. A helmet shall be provided to a person under 14 years of age who will operate the bicycle in such an area if the person does not already have a helmet in his possession. A fee may be charged for the helmet rental.

c. A person regularly engaged in the business of selling or renting bicycles who complies with the applicable requirements of subsections a. and b. of this section shall not be liable in a civil action for damages for any physical injury sustained by a bicycle operator or passenger who is under the age of 14 years as a result of the operator's or passenger's failure to wear a helmet or to wear a properly fitted or fastened helmet in violation of the requirements of this act.

C.39:4-10.4 Rules, regulations.

4. The director, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations which may be necessary to effectuate the purposes of this act.

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

Approved January 18, 1992.

CHAPTER 466

AN ACT concerning public assistance payments and amending P.L.1973, c.256 and P.L.1958, c.86.

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

1. Section 3 of P.L.1973, c.256 (C.44:7-87) is amended to read as follows:

C.44:7-87 Duties of the commissioner.

3. The commissioner shall:

a. Enter into agreements with the government to secure the administration of supplementary payments by the government for such time and upon such conditions as the commissioner may in his discretion deem appropriate.

b. Promulgate, alter and amend such rules, regulations and directory orders as are necessary and proper:

(1) To implement the terms of the agreement with the government for the administration by the government of supplementary payments; and

(2) To secure social services for eligible persons, and for such other aged, blind or disabled persons as the commissioner may designate.

c. Transfer State or welfare board funds, or both, currently appropriated for this State's participation in the federal categorical assistance programs of "Old Age Assistance," R.S.44:7-3 to R.S.44:7-37; "Assistance for the Blind," P.L.1962, c.197 (C.44:7-43 to 44:7-49) and "Permanent and Total Disability Assistance," P.L.1951, c.139 (C.44:7-38 to 44:7-42) and any funds which may in the future be appropriated for the payment of supplementary payments, to the government in such amounts and at such times as the commissioner shall deem appropriate in order to provide for supplementary payments to eligible persons in this State.

d. Pay to the government such funds as are necessary to reimburse the government's expenses in collecting additional information needed for the State to make eligibility determinations for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 to 30:4D-19).

e. Require welfare boards to perform such eligibility determinations as the commissioner may deem necessary for the continuation of the New Jersey Medical Assistance Program under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413. The commissioner shall pay to the counties a reasonable amount to reimburse the welfare boards for their expenses in making such eligibility determinations.

f. (Deleted by amendment, P.L.1990, c.66.)

g. Take appropriate steps to secure maximum federal financial participation in providing assistance to eligible persons residing in residential health care facilities.

h. Ensure that any eligible person residing in a rooming or boarding house or residential health care facility has reserved to him a monthly amount, from payments received under the provisions of the act to which this act is a supplement or from any other income, as a personal needs allowance. The personal needs allowance may vary according to the type of facility in which an eligible person resides, but in no case shall be less than $25.00 per month.

i. Ensure that any eligible person who receives medical assistance under subparagraph (4)(a) of subsection a. or under paragraph (11), (13) or (14) of subsection b. of section 6 of P.L.1968, c.413 (C.30:4D-6) receives $10.00 per month, in addition to benefits received pursuant to 42 U.S.C. § 1382(e)(1)(B). If the government cannot administer this $10.00 monthly increase, the commissioner shall administer this increase and shall ensure that this increase is not considered income for Supplemental Security Income program purposes. However, if the government increases the benefit level under 42 U.S.C. § 1382(e)(1)(B), the commissioner shall allow the government to administer this increase and shall reduce its payment to an eligible recipient by an equal amount.

j. Assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs, in order to obtain the amount of each county's share of supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county.

2. Section 4 of P.L.1973, c.256 (C.44:7-88) is amended to read as follows:

C.44:7-88 Duties and responsibilities of welfare boards.

4. Welfare boards shall:

a. Be relieved of those duties and responsibilities, under "Old Age Assistance," R.S.44:7-3 to 44:7-37, "Permanent and Total Disability Assistance," P.L.1951, c.139 (C.44:7-38 to 44:7-42), and "Assistance for the Blind," P.L.1962, c.197 (C.44:7-43 to 44:7-49), that the government has assumed under the Supplemental Security Income Program and under the agreement between the government and this State. Welfare boards shall retain, to the extent determined by the commissioner, the responsibility for the performance of all the functions under the above laws that the government will not perform pursuant to the agreement between the State and the government.

b. Provide social services to those persons designated to receive such services pursuant to section 3b.(2) of this act.

c. (Deleted by amendment, P.L.1990, c.66.)

d. Pay to the commissioner the amount assessed by the commissioner pursuant to subsection j. of section 3 of P.L.1973, c.256 (C.44:7-87).

3. Section 5 of P.L.1959, c.86 (C.44:10-5) is amended to read as follows:

C.44:10-5 State payments to county welfare agencies.

5. The State shall pay to each county welfare agency the full amount of any funds received by the State from the federal government as federal participation with respect to expenditures made by such county welfare agency for aid to families with dependent children (AFDC).

For aid to families with dependent children payments that are eligible for federal financial participation, payment of the State share of expenditures by the county welfare agency shall be at the rate of 52.5% during the period July 1 through December 31 of each year and at a rate of 37.5% during the period January 1 through June 30 of each year; except that the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 45%.

For payments that are not eligible for federal financial participation, payment of the State share of expenditures by the county welfare agency shall be at the rate of 115% during the period July 1 through December 31 of each year and at a rate of 75% during the period January 1 through June 30 of each year; except that the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 95%.

The State shall pay to each county welfare agency for aid provided to families with dependent children as defined in subparagraphs (ii) and (iii) of paragraph (1) of subsection (c) of section 1 of P.L.1959, c.86 (C.44:10-1), the entire amount of such expenditures that exceed the level of expenditures in 1976 for aid to families of the working poor pursuant to P.L.1971, c.209 (C.44:13-1 et seq.), after deduction for federal participation.

The State shall also pay to each county welfare agency the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of

administration of the program of aid to families with dependent children by such county welfare agency.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 467

AN ACT concerning the Governor's Teaching Scholars Loan Program and amending P.L.1986, c.180.

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

1. Section 3 of P.L.1986, c.180 (C.18A:71-81) is amended to read as follows:

C.18A:71-81 Service credits toward loan redemption; deferral extensions.

3. a. Loans may be redeemed in full for teaching service in New Jersey public schools, according to the schedule recommended by the steering committee established pursuant to section 4 of this act and approved by the State Board of Education. Service by a participant in the program as a teacher in a nonpublic school, or in a New Jersey State college or county college may be applied toward loan redemption if, prior to commencing that service, the participant has pursued employment as a teacher in the public schools and has sought the assistance of the Department of Education as provided pursuant to section 5 of P.L.1986, c.180 (C.18A:71-83). For the purposes of this section, "public schools" shall mean any primary or secondary education program that is supported by public funds and is operated by or under contract with a board of education, an educational services commission established pursuant to P.L.1968, c.243 (C.18A:6-51 et seq.) or a State facility as defined in section 3 of P.L.1990, c.52 (C.18A:7D-3). "Nonpublic school" shall mean an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of those grades, where any child may legally fulfill compulsory school attendance requirements and which complies

with the requirements of Title IV of the Civil Rights Act of 1964 (P.L.88-352). The Commissioner of Education may, at his or her discretion, approve other teaching service by a program participant as credit toward loan redemption, provided that such service is performed within the State and requires the performance of professional duties similar to those of a public school teacher.

b. Notwithstanding any laws or regulations to the contrary, the commissioner may, at his or her discretion, extend the deferral period for loan repayment for a program participant who has reasonably attempted but has been unable to obtain employment that is eligible for credit toward loan redemption as provided in subsection a. of this section.

c. The State board may designate critical geographic areas of teacher shortage and establish an accelerated schedule of redemption credits for program participants who teach in these designated areas.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 468

AN ACT appropriating $4,534,277 from the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, for the purpose of making State grants, as awarded by the New Jersey Historic Trust, for historic preservation projects for the renovation, restoration and rehabilitation of historic properties owned by State, county and municipal governments and by tax exempt nonprofit organizations.

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

1. a. There is appropriated to the New Jersey Historic Trust from the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of $4,534,277 for the purpose of making State grants, as awarded by the New Jersey Historic Trust, for

historic preservation projects for the renovation, restoration and rehabilitation of historic properties owned by State, county and municipal governments and by tax exempt nonprofit organizations, which sum shall include administrative costs of the New Jersey Historic Trust incurred in administering this act. The following projects are eligible for funding with the monies appropriated pursuant to this section:

COUNTY	PROPERTY NAME	LOCATION	NAME OF ORGANIZATION	GRANT AWARD
Bergen	Bergen County Courthouse Complex	Hackensack	County of Bergen	$400,000
Bergen	Tenafly Railroad Station	Tenafly	Borough of Tenafly	133,700
Burlington	Batsto Village	Batsto	Division of Parks and Forestry, DEP	516,182
Burlington	Spring Garden Street Complex	Palmyra	Palmyra Board of Education	134,500
Burlington	White Horse Inn/ Shamong Hotel	Chatsworth	Chatsworth Club, Inc.	114,049
Camden	Champion School	W. Collingswood	Newton Union School Society, Inc.	99,625
Camden	Tabernacle of Faith	Camden	Tabernacle of Faith Church	114,048
Cape May	Cape May Point Lighthouse	Lower Township	Mid-Atlantic Center for the Arts	20,638
Cumberland	Schooner Clyde A. Phillips	Leesburg	Schooner Clyde A. Phillips, Inc.	215,000
Essex	St. Columba's Church	Newark	St. Columba's Roman Catholic Church	100,000
Hudson	Barrow Mansion	Jersey City	Barrow Mansion Development Corp.	311,375
Hudson	Hoboken Terminal	Hoboken	NJ Transit	300,000
Hudson	Loew's Jersey Theatre	Jersey City	Jersey City Economic Development Corp.	1,000,000
Middlesex	Buccleuch Mansion	New Brunswick	City of New Brunswick	213,627
Middlesex	Gristmiller's House	Cranbury	Cranbury Historical & Preservation Society	40,000
Middlesex	Kearny Cottage	Perth Amboy	City of Perth Amboy	18,250
Morris	Craftsman Farms	Parsippany-Troy Hills	Township of Parsippany - Troy Hills	100,000

COUNTY	PROPERTY NAME	LOCATION	NAME OF ORGANIZATION	GRANT AWARD
Passaic	Long Pond Ironworks	West Milford Township	Division of Parks and Forestry, DEP	268,703
Salem	Fort Mott	Salem	Division of Parks and Forestry, DEP	150,000
Somerset	Hageman Farm	Somerset	Meadows Foundation	64,580
Union	Deserted Village of Feltville/ Glenside Park	Berkeley Heights	County of Union, Dept. of Parks & Recreation	220,000
TOTAL				$4,534,277

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

2. There is appropriated to the New Jersey Historic Trust the unexpended balances of the amounts appropriated pursuant to P.L.1990, c.91 from the "Cultural Centers and Historic Preservation Fund" for the purpose of making grants for the projects listed in section 1 of this act, to the extent such funds are available as a result of project withdrawals or cost savings.

3. To the extent that monies remain available after the projects listed in section 1 of this act are offered funding from the "Cultural Centers and Historic Preservation Fund," the projects listed in P.L.1990, c.91, shall be eligible for funding, including administrative costs of the New Jersey Historic Trust in administering this section, in a sequence consistent with the priority system established by the New Jersey Historic Trust, and shall require the approval of the Joint Budget Oversight Committee or its successor.

4. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P.L.1987, c.265.

5. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 469

AN ACT concerning taxes otherwise due in the sixth and subsequent years for certain residential structures granted a five-year tax abatement and amending P.L.1989, c.207.

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

1. Section 2 of P.L.1989, c.207 (C.54:4-3.140) is amended to read as follows:

C.54:4-3.140 Definitions.

2. As used in this act:

"Abatement" means an exemption from real property taxes provided for the purposes of encouraging residential construction, conversion, improvement and redevelopment pursuant to this act;

"Assessor" means the municipal tax assessor appointed pursuant to the provisions of chapter 9 of Title 40A of the New Jersey Statutes;

"Average ratio" means the certified average ratio, used for determining the common level range for each taxing district pursuant to P.L.1973, c.123 (C.54:1-35a et al.) as prepared by the Director of the Division of Taxation for the preceding tax year;

"Completed," with respect to a parcel of qualified property, or the "completion" of that property, means substantially ready for the use for which it is intended and its occupancy as a principal residence;

"Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.);

"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 constructed or erected by the corporation or association;

"Cost," when used with respect to construction, or to an improvement or conversion alteration, means only the cost or fair market value of labor and materials used in constructing or improving qualified residential property, or in converting another building or structure to qualified residential property, including any architectural, engineering, and contractors' fees associated with the construction, improvement or conversion, 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;

"Equalized taxes otherwise due" means the tax amount derived by levying on a structure for which a five-year tax abatement has been granted, a property tax imposed in the same manner as other property taxes are levied pursuant to chapter 4 of Title 54 of the Revised Statutes, except that for all tax years subsequent to the last tax abatement year including and ending in the tax year prior to a municipal-wide revaluation, the total property tax prior to any tax deduction shall be equalized by the tax collector by multiplying that amount times the average ratio of the taxing district, but in no event shall the payment for equalized taxes otherwise due be less than the total property tax payment on the structure prior to any tax deduction due and payable during the third tax year following completion of construction, improvements or conversion alterations pursuant to section 7 of P.L.1989, c.207 (C.54:4-3.145). No appeal shall be taken by the property owner from the determination by the tax collector of equalized taxes otherwise due, except for mathematical or typographical errors;

"Horizontal property regime" means the form of real property ownership provided for under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

"Qualified municipality" means a municipality in which an urban enterprise zone or part of an urban 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.), and shall include the entire area within the corporate boundaries of that municipality, whether or not that area is included within an urban enterprise zone; and

"Qualified residential property" means any building used or to be used or held for use as a home or residence, including accessory buildings located on the same premises and including condominiums, cooperatives and horizontal property regimes. No building shall be considered a qualified residential property if the certificate of occupancy for the construction, conversion, rehabilitation or renovation was issued on or before the date falling 30 months prior to the effective date of this act.

2. Section 7 of P.L.1989, c.207 (C.54:4-3.145) is amended to read as follows:

C.54:4-3.145 Financial agreement; payments in lieu of taxes.

7. a. Each approved abatement shall be evidenced by a financial agreement between the qualified municipality and the applicant. The agreement shall be prepared by the applicant and shall con-

tain the representations that are required by the enabling ordinance. The agreement shall provide for the applicant to annually pay to the municipality an amount in lieu of real property taxes, to be computed according to either subsection b. or c. of this section, as provided for in the enabling ordinance.

b. Payments in lieu of taxes may be computed as two percent of the cost of the improvements or conversion alterations, as appropriate for five years following such completion and in the sixth and all subsequent tax years following completion, 100% of the equalized taxes otherwise due; or

c. Payments in lieu of taxes may be computed as a portion of the real property taxes otherwise due, according to the following schedule:

(1) In the first tax year following completion, no payment in lieu of taxes otherwise due;

(2) In the second tax year following completion, an amount not less than 20% of taxes otherwise due;

(3) In the third tax year following completion, an amount not less than 40% of taxes otherwise due;

(4) In the fourth tax year following completion, an amount not less than 60% of taxes otherwise due;

(5) In the fifth tax year following completion, an amount not less than 80% of taxes otherwise due;

(6) In the sixth and all subsequent tax years following completion, 100% of the equalized taxes otherwise due.

d. For the purposes of this section, the amount of "taxes otherwise due" (not to be confused with "equalized taxes otherwise due") shall be determined by including the appropriate percentage of the assessed valuation of the abated structure, improvement or conversion alteration, as the case may be, on the assessment list of the municipality as taxable property, and levying taxes thereon in the same manner as other taxes are levied pursuant to chapter 4 of Title 54 of the Revised Statutes; provided, however, that no value for a property subject to the provisions of this act shall be included in the calculation of the "net valuation on which county taxes are apportioned" until the first tax year for which a municipal-wide revaluation is implemented.

3. This act shall take effect immediately and shall apply to any five-year tax abatement agreement entered into under P.L.1989, c.207 (C.54:4-3.139 et seq.).

Approved January 18, 1992.

CHAPTER 470

AN ACT concerning the retirement allowance of certain members of the Judicial Retirement System of New Jersey.

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

1. Notwithstanding the provisions of section 8 of P.L.1973, c.140 (C.43:6A-8) or any other law or regulation to the contrary, any judge of the several courts who shall have served at least 10 years less 30 days successively as a judge of the several courts, having attained the age of 70 years, shall be retired and, upon making application to the State House Commission within one year following the effective date of this act, shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance during the remainder of his life in the amount equal to three-quarters of his final salary.

2. This act shall take effect immediately and shall expire one year thereafter.

Approved January 18, 1992.

CHAPTER 471

AN ACT appropriating funds from the "Correctional Facilities Construction Fund of 1987" for expansion, renovation and 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 $4,669,225 for the following renovations projects:

DEPARTMENT OF CORRECTIONS

Northern Regional Pre-Release Center (Secaucus), Building Renovations...	$2,425,500
Kearny Facility, Building Renovations	$2,243,725
Total Appropriation.....	$4,669,225

2. 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.

3. In order to provide flexibility in administering the provisions of this act, the Commissioner of the Department of Corrections may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer a part of any item to any other item within the respective department accounts in the Correctional Facilities Construction Fund. The transfers shall be made in a manner consistent with section 29 of P.L.1987, c.178.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 472

AN ACT concerning limited partnerships, supplementing P.L.1983, c.489 (C.42:2A-1 et seq.) and repealing section 1 of P.L.1984, c.245.

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

C.42:2A-14.1 Certificates of limited partnerships formed prior to April 1, 1985.

1. a. Each limited partnership formed prior to the effective date of P.L.1983, c.489 (C.42:2A-1 et seq.) under any law of this State

shall provide the Secretary of State with a copy of its certificate of limited partnership, as amended, which, except as provided in subsection b. of this section, shall be certified by the county clerk of the county in which the certificate is on file.

b. If a limited partnership is unable to comply with subsection a. of this section because no copy of its certificate of limited partnership can be located in the office of the county clerk of the county in which the certificate was filed, the limited partnership may provide the Secretary of State with an uncertified copy of its certificate of limited partnership in lieu thereof, providing the genuineness of the copy can be established to the satisfaction of the Secretary of State based upon an affidavit of a general partner, or if there is no existing general partner, a limited partner, affirming the formation of the limited partnership and filing of the certificate of limited partnership with the appropriate county clerk. If the Secretary of State rejects an uncertified certificate of limited partnership, the limited partnership whose certificate has been rejected may proceed in a summary manner requesting an order from the Superior Court declaring the certificate valid and requiring the Secretary of State to accept it.

c. Any limited partnership whose certificate of limited partnership was transmitted to and accepted by the Secretary of State prior to the effective date of this act shall be deemed to have complied with the requirements of subsection a. of this section.

d. Any limited partnership which has not complied with the requirements of P.L.1984, c.245 shall be deemed to be in inactive status. A limited partnership in inactive status shall remain a limited partnership, but no name reservations, transfers of reserved names or certificates of amendment may be filed until the limited partnership is transferred to active status as provided by subsection e. of this section. A limited partner of a limited partnership shall not be deemed liable as a general partner of the limited partnership solely by reason that the limited partnership is in inactive status.

e. In order to be transferred to active status, a limited partnership which is in inactive status shall provide to the Secretary of State the following:

(1) the name of the limited partnership; its address, including the actual location as well as the postal designation, if different, of its registered agent; and the name of its registered agent, which may be provided by letter or other writing; and

(2) a copy of its certificate of limited partnership, as amended, either certified by the county clerk or the county in which the cer-

tificate is on file or which is acceptable to the Secretary of State in accordance with subsection b. of this section.

In addition, in order to be transferred to active status, a limited partnership shall forfeit to the State for each year the limited partnership was in inactive status a penalty of twice the amount of the then current fee for filing annual reports. No limited partnership shall be deemed to be in inactive status for purposes of assessment of the penalty until the day after the 90th day following the effective date of this act. The maximum penalty which may be imposed under this subsection is $1,000. The penalty may be recovered, with costs, in an action brought by the Attorney General.

Repealer.

2. Section 1 of P.L.1984, c.245 is repealed.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 473

AN ACT concerning certain retirants from the Public Employees' Retirement System of New Jersey who are reemployed in positions covered by the retirement system and supplementing P.L.1954, c.84.

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

1. Notwithstanding the provisions of section 27 of P.L.1966, c.217 (C.43:15A-57.2) or any other law to the contrary, a member of the retirement system who had previously retired from the system on a benefit based upon 10 or more years of service credit and was reenrolled in the system within three years after the effective date of the previous retirement may, upon repayment of the full amount of retirement benefits received from the system, have the former membership account transferred to the current membership account. All subsequent benefits from the system shall be based upon the current membership account, which shall include the salary and service credit from the former membership

account. The employee contribution rate shall be the rate for the current membership account.

2. This act shall take effect immediately and shall expire on the first day of the fourth full calendar month after the effective date.

Approved January 18, 1992.

CHAPTER 474

AN ACT authorizing a project addition and extension to the New Jersey Turnpike, repealing the State Highway designation of that route, supplementing P.L.1948, c.454 (C.27:23-1 et seq.) and repealing P.L.1938, c.345 and P.L.1941, c.105.

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

C.27:23-23.8 Route 92 Freeway extension.

1. The New Jersey Turnpike authority is authorized to acquire, construct, maintain, repair and operate a project addition and extension to the New Jersey Turnpike consisting of a high speed limited-access superhighway beginning at or near Interchange 8A of the New Jersey Turnpike and thence in a general westerly direction through Middlesex County to an interchange with U.S. Route 1 in the general vicinity of the intersection of U.S. Route 1 and Ridge Road (County Road 522) or U.S. Route 27 as the authority, after study, deems appropriate.

Repealer.

2. P.L.1938, c.345 and P.L.1941, c.105 are repealed.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 475

AN ACT concerning emergency sirens and supplementing P.L.1971, c.418 (C.13:1G-1 et seq.).

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

C.13:1G-4.2 Sirens prohibited in proximity to schools, etc.

1. a. A siren or other sound emitting device used to alert firefighters, other emergency services personnel or the public of a fire or other emergency shall be located no closer than 500 feet from any school, school yard or playground serving persons younger than 16 years of age.

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 180 days following enactment, with the exception of subsection b. of section 1 which shall take effect immediately.

Approved January 18, 1992.

CHAPTER 476

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, 1992 and regulating the disbursement thereof," approved June 30, 1991 (P.L.1991, c.185).

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.1991, c.185, there are appropriated out of the General Fund the following sums for the purposes specified:

GRANTS-IN-AID
54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services--
Grants-In-Aid

22-7540 General Medical Services.....	$100,000,000

Grants:		
Payments for Medical Assistance recipients-Nursing homes	($21,799,000)	
Payments for Medical Assistance recipients-Inpatient hospital	(12,264,000)	
Payments for Medical Assistance recipients-Prescription drugs	(7,663,000)	
Payments for Medical Assistance recipients-Outpatient hospital	(42,303,000)	
Payments for Medical Assistance recipients-Physician	(11,370,000)	
Payments for Medical Assistance recipients-Home Health	(3,398,000)	
Payments for Medical Assistance recipients-Dental	(1,203,000)	
Total Appropriation, Grants-In-Aid		$100,000,000

STATE AID
54 DEPARTMENT OF HUMAN SERVICES
50 Economic Planning, Development and Security
53 Economic Assistance and Security - State Aid
7550 Division of Economic Assistance

15-7550 Income Maintenance		$22,000,000
State Aid:		
Payments to municipalities for cost of General Assistance	($1,391,000)	
Payments for Dependent Children Assistance, Regular segment	(12,045,000)	
Payments for Supplemental Security Income	(5,071,000)	
Payments for Dependent Children Assistance, Unemployment of father	(2,410,000)	
Payments for Dependent Children Assistance, Insufficient employment of parents	(1,083,000)	
Total Appropriation, State Aid		$22,000,000
Total Appropriation, General Fund		$122,000,000

2. In addition to language included in P.L.1991, c.185, the following language is included:

GRANTS-IN-AID
54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services--
Grants-In-Aid

In addition to the amount hereinabove appropriated, there are appropriated such additional amounts from revenues in excess of the $220,000,000 anticipated in P.L.1991, c.185 from Medicaid Uncompensated Care Title XIX Reimbursement and federal matching funds as may be required for the payment of General Medical Services, subject to the approval of the Director of the Division of Budget and Accounting.

3. 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
54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services

22-7540 General Medical Service		$131,000,000
State Aid and Grants:		
Medical assistance	($131,000,000)	

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Economic Assistance

15-7550 Income Maintenance		$6,014,000
State Aid and Grants:		
Dependent children assistance	($6,014,000)	
Total Appropriation, Federal Funds		$137,014,000

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 477

AN ACT concerning the approval of certain board of education lease purchase agreements and amending N.J.S.18A:20-4.2.

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

1. N.J.S.18A:20-4.2 is amended to read as follows:

Powers of boards concerning real property.

18A:20-4.2. The board of education of any school district may, for school purposes:

(a) Purchase, take and condemn lands within the district and lands not exceeding 50 acres in extent without the district but situate in a municipality or municipalities adjoining the district, but no more than 25 acres may be so acquired in any one such municipality, without the district, except with the consent, by ordinance, of such municipality;

(b) Grade, drain and landscape lands owned or to be acquired by it and improve the same in like manner;

(c) Erect, lease for a term not exceeding 50 years, enlarge, improve, repair or furnish buildings;

(d) Borrow money therefor, with or without mortgage; in the case of a type II district without a board of school estimate, when authorized so to do at any annual or special school election; and in the case of a type II district having a board of school estimate, when the amount necessary to be provided therefor shall have been fixed, determined and certified by the board of school estimate; and in the case of a type I district, when an ordinance authorizing expenditures for such purpose is finally adopted by the governing body of a municipality comprised within the district; provided, however, that no such election shall be held nor shall any such resolution of a school estimate board or ordinance of a municipal governing body be introduced to authorize any lease of any building for a term exceeding one year, until the proposed terms of such lease have been reviewed and approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(e) Construct, purchase, lease or otherwise acquire a building with the federal government, the State, a political subdivision thereof or any other individual or entity properly authorized to do business in the State; provided that: (1) the noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education; (2) the portion of the building to be used as a school meets regulations of the Department of Education; (3) the board of education has complied with the provisions of law and regulations relating to the selection and approval of sites; and (4) in the case of a lease, that any lease in excess of five years shall be

approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(f) Acquire by lease purchase agreement a site and school building; provided that the site and building meet guidelines and regulations of the Department of Education and that any lease purchase agreement in excess of five years shall be approved by the Commissioner of Education as in the best interest of the school district after determining that the relationship of the proposed lease purchase project to the district's goals and objectives established pursuant to P.L.1975, c.212 (C.18A:7A-1 et seq.) has clearly been established; and provided that for any lease purchase agreement in excess of five years the Local Finance Board in the Department of Community Affairs shall determine within 30 days that the cost and the financial terms and conditions of the agreement are reasonable. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased premises during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have been made by the board of education in accordance with the lease. As part of such a transaction approved by the Commissioner of Education, the board of education may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value, to the party selected by the board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such lease purchase agreement, notwithstanding the provisions of any other law to the contrary. The land and any building thereon which is described in a lease purchase agreement entered into pursuant to this amendatory act, shall be deemed to be and treated as property of the school district, used for school purposes pursuant to R.S.54:4-3.3, and shall not be considered or treated as property leased to another whose property is not exempt, and shall not be assessed as real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement authorized by this section shall contain a provision making payments thereunder subject to the annual appropriation of funds sufficient to meet the required payments or shall contain an annual cancellation clause and shall require all construction contracts let by public school districts or let by developers or owners of property used for school purposes to be competitively bid, pursuant to P.L.1977, c.114 (N.J.S.18A:18A-1 et seq.);

(g) Establish with an individual or entity authorized to do business in the State a tenancy in common, condominium, horizontal property regime or other joint ownership arrangement on a site contributed by the school district; provided the following conditions are met:

(1) The individual or entity agrees to construct on the site, or provide for the construction thereon, a building or buildings for use of the board of education separately or jointly with the individual or entity, which shall be subject to the joint ownership arrangement;

(2) The provision of the building shall be at no cost or at a reduced cost to the board of education;

(3) The school district shall not make any payment for use of the building other than its pro rata share of costs of maintenance and improvements;

(4) The noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education;

(5) The portion of the building to be used as a school, and the site, meet regulations of the Department of Education; and

(6) Any such agreement shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs.

2. This act shall take effect on the 60th day following the date of enactment.

Approved January 18, 1992.

CHAPTER 478

AN ACT concerning public assistance and food stamp payments, amending and supplementing P.L.1985, c.501, and repealing section 4 of P.L.1985, c.501 (C.44:10-5.4).

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

1. Section 1 of P.L.1985, c.501 (C.44:10-5.1) is amended to read as follows:

C.44:10-5.1 Short title.

1. This act shall be known and be cited as the "Public Assistance Electronic Benefit Distribution System Act."

2. Section 2 of P.L.1985, c.501 (C.44:10-5.2) is amended to read as follows:

C.44:10-5.2 Electronic distribution of food stamps and AFDC benefits.

2. The Department of Human Services shall establish an electronic benefit distribution system for the purpose of issuing food stamp and Aid to Families with Dependent Children (AFDC) benefits. Implementation of the system shall begin in Camden, Hudson and Essex counties by April 30, 1992.

3. Section 3 of P.L.1985, c.501 (C.44:10-5.3) is amended to read as follows:

C.44:10-5.3 Avoidance of hardship, charges; retailers' participation.

3. a. The Department of Human Services shall provide that no AFDC or food stamp recipient experiences hardship due to the revised payment system either during transition to the new system or upon making an initial application for benefits.

b. The department shall provide that no charges are imposed on food stamp or AFDC recipients for participation in the program.

c. Any retail establishment currently authorized to participate in the food stamp program shall be afforded the opportunity to participate in the electronic benefit distribution system.

Repealer.

4. Section 4 of P.L.1985, c.501 (C.44:10-5.4) is repealed.

C.44:10-5.6 Payment cycles.

5. The Department of Human Services shall cycle the issuance of benefits over multiple dates throughout the month in a manner that best serves AFDC and food stamp recipients within the framework of the electronic benefit distribution system in each county. Such cycling shall begin in Camden, Hudson and Essex counties on July 1, 1992.

C.44:10-5.7 Evaluation, implementation of system.

6. a. The Department of Human Services shall evaluate the operation of the electronic benefit distribution system in the initial counties, and, as deemed appropriate, shall proceed to implement the system in additional counties.

b. The department shall implement the system in any additional county upon the request of the board of chosen freeholders of such county, or, in a county operating under the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), upon the request of the chief executive officer of such county. However, if the department does not deem it appropriate

to implement the system in such requesting county, the department shall not implement the system, and shall submit a report in writing stating the reasons for that determination to the Assembly Health and Human Services and Appropriations Committees and the Senate Institutions, Health and Welfare and Revenue, Finance and Appropriations Committees, or their successors.

c. Any additional county in which the system is implemented shall be exempted from the cycling of the issuance of benefits over multiple dates throughout the month, upon the request of the board of chosen freeholders of such county, or, in a county operating under the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), upon the request of the chief executive officer of such county.

C.44:10-5.8 Implementation plan, reports.

7. a. The Commissioner of Human Services shall prepare an electronic benefit distribution system implementation plan, in consultation with the county welfare agencies in Camden, Hudson and Essex counties, on or before October 1, 1991. The plan shall include an estimate of the costs to participating counties and a determination of the feasibility of staggering payment schedules with no less than four working days between payment dates.

b. The commissioner shall report to the Legislature and the Governor by October 1, 1991 on the plan to implement the electronic benefit distribution system and shall report quarterly thereafter for two years to the Legislative Joint Budget Oversight Committee on the implementation of the plan.

8. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 479

AN ACT concerning certain publicly assisted housing projects, requiring registration, identification and evaluation of projects under consideration for such assistance, and requiring certain reports relative to such consideration, supplementing P.L.1966, c.293 (C.52:27D-1 et seq.).

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

C.52:27D-307.1 Definitions.

1. As used in this act:

"Agency" means the Housing and Mortgage Finance Agency established pursuant to section 4 of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4).

"Commissioner" means the Commissioner of Community Affairs.

"Council" means the Council on Affordable Housing created by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)

"Department" means the Department of Community Affairs.

"Housing region" means a housing region as determined by the Council on Affordable Housing pursuant to section 7 of P.L.1985, c.222 (C.52:27D-307).

"Project" or "housing project" means any specific work or undertaking for the purpose of providing housing accommodations, whether by new construction or by rehabilitation or adaptation of existing structures, that shall be affordable to persons and families of low or moderate income within the meaning of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). Such work or undertaking may include the acquisition, construction or rehabilitation of lands, buildings and improvements, and such stores, offices, and social, recreational, communal or other facilities as may be incidental or appurtenant to the housing accommodations that are to be provided.

"Register" means the Register of Housing Projects directed by section 2 of this act to be established and maintained by the commissioner.

C.52:27D-307.2 Register of Housing Projects, requirements, reports.

2. a. The commissioner shall cause to be established and kept a Register of Housing Projects. The register shall list all projects for which proposal or application has been submitted for assistance under any program of loans, grants or other financial aid administered by the department, including programs administered by the agency, or for which the offices of the department have been solicited in furthering an application for such assistance from any other program of like nature administered by another agency or instrumentality of the State or of the United States government.

b. The register shall identify each such project by name and location, and shall identify the proposed sponsor or developer thereof. If the proposed sponsor or developer is a corporation, association or partnership, the register shall identify by name and address each stockholder, member or partner whose participation therein represents an equity

interest exceeding five percent. No application or proposal relating to a project for which the information required by this subsection is not made available to the commissioner shall be received or entertained by the department or any division, bureau, officer or employee thereof, or by the agency; nor shall any action upon such application or proposal heretofore received or entertained be taken after the effective date of this act until the required information is made available to the commissioner.

c. The commissioner shall, not later than the 90th day next following the effective date of this act, file with the Governor and Legislature a copy of the register upon its compilation in accordance with this section, and thereafter shall promptly report to the Governor and Legislature any additional projects to be included therein. The register and subsequent reports shall include for each project the priority designation assigned to it pursuant to section 3 of this act. The register and subsequent supplements pursuant to this subsection shall be filed with the Secretary of the Senate and Clerk of the General Assembly, and shall be a public record.

C.52:27D-307.3 Priority ratings of projects.

3. a. The commissioner shall cause to be developed a system for assigning and designating priority ratings to each project included in the register. Priority ratings shall be based upon the following factors, giving to each factor such weight as the commissioner shall judge to be appropriate:

(1) Feasibility. Each project shall be evaluated for its physical and financial feasibility, giving consideration to the capabilities of the proposed sponsor or developer, market conditions and regulatory requirements in the locality for which it is proposed, and the availability of financing in sufficient amount and at reasonable cost.

(2) Desirability. Each project shall be evaluated with relation to its probable effect in meeting the affordable housing needs of the housing region in which it is to be located, in accordance with the standards and criteria of the council. Consideration shall be given to (a) the number of affordable dwelling units that the project would provide, (b) the proportion of affordable units to the total number of units envisaged in the project plan, (c) the distribution of those affordable units as between those affordable to persons and families of low income and those of moderate income, considered in relation to the needs of the housing region, (d) appropriateness of the proposed tenure of the affordable units, whether to be rental or owner-occupied, in relation to the needs of the housing region, and (e)

appropriateness of the proposed distribution of units as to family size, in relation to the needs of the housing region.

(3) Efficiency. Each project shall be evaluated on the basis of the cost to the State, in terms of financial assistance granted or revenue forgone in order to further the project, for each affordable dwelling unit judged by the commissioner to be feasible and desirable according to the terms of the proposal or application made for such assistance.

b. In developing the system of assigning and designating priorities, and in evaluating individual projects for such assignment and designation in the register, the commissioner shall consult with the executive director of the agency and the executive director of the council. The council and the agency shall promptly and fully supply the commissioner with all relevant information necessary for the commissioner's timely and complete fulfillment of the requirements of this act.

C.52:27D-307.4 Reports of communications in furtherance of projects.

4. a. Any officer or employee of the department, including any member, officer or employee of the agency or the council, who receives from any person any solicitation, application, proposal or communication of any kind, whether oral or in writing, aimed at furthering the assistance of any project shall promptly report the same to the commissioner. The report shall identify the person or persons making such communication. If any such person is not identified in the register in accordance with the requirements of subsection b. of section 2 of this act, the report shall state the person's relationship to the sponsor or developer of the project and the capacity in which the person represents himself or herself to be acting on behalf of the sponsor or developer; or if the person fails or refuses to supply that information, the report shall so state.

b. The commissioner shall develop a procedure or procedures by which reports required under subsection a. of this section shall be made either to the commissioner directly or through such administrative channels as the commissioner shall devise and direct. Notwithstanding the provisions of subsection i. of section 4 of P.L.1983, c.530 (C.55:14K-4) and subsection a. of section 5 of P.L.1985, c.222 (C.52:27D-305), the regulations adopted by the commissioner in fulfillment of this subsection shall be of full force and application on and within the agency and the council; and all members, officers and employees of the agency and council shall give full compliance with and obedience to the rules and

orders of the commissioner made in pursuance of his duties and responsibilities under this act.

c. Reports made to the commissioner shall be promptly forwarded by him, not later than 10 days after their receipt, to the Governor and to the presiding officers of the Houses of the Legislature, who shall cause all members of their respective Houses to be notified of the receipt of those reports and shall make adequate provision for the inspection of the commissioner's reports by members and committees of either House, and for the dissemination of those reports to the public. The reports forwarded by the commissioner shall in each instance indicate the priority rating that has been assigned in the register to the project to which the report relates.

C.52:27D-307.5 Rules, regulations.

5. The commissioner shall adopt and 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 for the prompt and effective carrying out of the provisions and purposes of this act.

6. This act shall take effect immediately, except that section 4 shall not become operative until the regulations required pursuant to subsection b. of that section have been adopted and the register directed to be compiled under section 2 has been filed in compliance with subsection c. of that section.

Approved January 18, 1992.

CHAPTER 480

AN ACT providing for the sale and disposition of carpets or rugs remaining unclaimed at carpet and rug cleaning shops in certain cases and amending P.L.1983, c.528.

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

1. Section 2 of P.L.1983, c.528 (C.2A:44-19.2) is amended to read as follows:

C.2A:44-19.2 Lien for charges or services.

2. Any person who performs dry cleaning, pressing, glazing, dyeing, washing, laundering, alteration, tailoring or repairs, or uses or furnishes materials or supplies, upon any garment, clothing, wearing apparel (exclusive of furs), draperies, curtains, carpets or rugs, slipcovers or furniture covers, or stores any of the same, at the request of or with the consent of a customer, shall have a lien thereon for the agreed charges for the work, services, storage, materials or supplies, or, in the event there has been no agreed charge, for the reasonable value thereof.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 481

AN ACT concerning urban transportation and supplementing Title 27 of the Revised Statutes.

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

C.27:1A-5.7 Findings, determinations.

1. The Legislature finds and determines that:

a. The development of a comprehensive transportation system to serve the needs of the residents of the cities of this State is essential to promoting and maintaining employment opportunities and continued economic development of the cities.

b. Increasingly large numbers of inner city residents are travelling from the cities where entry-level jobs are scarce to the suburbs where these jobs are plentiful on a transportation system organized for the benefit of suburban commuters travelling to work in the cities rather than for the needs of the "reverse commuters" who travel from areas of high unemployment in the cities to suburban areas where there is a shortage of labor.

c. Many professionals and business people living in suburban areas could be attracted back to the cities as part of an urban renaissance in the State if transportation facilities were improved to better serve the needs of the residents of the cities.

d. Stimulating the development of more balanced transportation systems for the purposes described is in the public interest and should be encouraged to aid in preserving and enhancing the economic well-being of the cities of this State.

e. Immediate research and planning is necessary by public transportation officials in the State in order to formulate recommendations for action to assist the State's "reverse commuters" and to insure the continued economic vitality of the cities.

C.27:1A-5.8 Urban transportation supplement to the State Transportation Plan.

2. The Department of Transportation shall in conjunction with the New Jersey Transit Corporation prepare, or cause to be prepared, an urban transportation supplement to the State Transportation Plan. The supplement shall address the current and projected transportation needs of the Atlantic City, Camden, Elizabeth, Jersey City, Newark, Paterson and Trenton urban areas and shall make recommendations for meeting these needs with particular emphasis on the transportation problems of the State's inner city residents who are employed by or who are seeking employment with employers located in suburban areas of the State.

C.27:1A-5.9 Transportation needs and recommendations.

3. The urban transportation supplement to the State Transportation Plan shall include descriptions of the current and projected transportation needs and the plans and recommendations for meeting those needs in the urban areas designated in section 2 of this act. This shall include the nature and extent of public highways, public transportation services and transportation projects which the department recommends for consideration by the Legislature in meeting the needs and projected needs of the designated urban areas and addressing the transportation problems faced by the inner city residents commuting to suburban areas for the purposes of employment.

C.27:1A-5.10 Consultation with other agencies.

4. The Department of Transportation shall consult with the Department of Labor, the Office of State Planning, the New Jersey Commission on Capital Budgeting and Planning and any other federal, State, regional or local agency having an interest in the preparation of the urban transportation supplement to the State Transportation Plan.

C.27:1A-5.11 Supplement as added to other plans and law requirements.

5. The urban transportation supplement to the State Transportation Plan required by this act shall be in addition to the requirements for a master plan imposed by section 22 of

P.L.1984, c.73 (C.27:1B-22) and section 5 of P.L.1966, c.301 (C.27:1A-5). The urban transportation supplement to the State Transportation Plan shall also be considered as separate and apart from those transportation plans already required to be prepared by existing metropolitan planning organizations.

C.27:1A-5.12 Completion of supplement, updates.

6. The urban transportation supplement to the State Transportation Plan shall be completed within 12 months of the effective date of this act and submitted to New Jersey Commission on Capital Budgeting and Planning, the Chairman of the Senate Transportation and Public Utilities Committee and the Chairman of the Assembly Transportation Committee. The supplement shall relate to the overall State Transportation Plan. The transportation problems of the urban areas shall be addressed in each urban area and in relation to the State transportation system. The supplement shall be updated by the Department of Transportation as a supplement to each five-year State Transportation Plan.

7. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 482

AN ACT concerning certain credit card transaction forms.

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

C.56:11-24 Credit card transaction forms by issuers.

1. Any person, firm, partnership, association or corporation which issues forms used exclusively for credit card transactions between the credit cardholder and seller shall only issue credit card forms which:

a. are carbonless;

b. after the transaction is complete, do not render a separate piece of paper, carbon or otherwise, which readily identifies the cardholder by name or number, other than those necessary for use by the seller, credit cardholder and issuer to complete the credit card transaction;

c. are carbonized backed forms that may be retained for recordkeeping purposes of the seller, the seller's agent or subcontractor, the issuer or the credit cardholder; or

d. have a perforated or split carbon, half of which is disposable, and upon completion of the transaction the disposable portion of the carbon renders only half of the cardholder's name and account number.

C.56:11-25 Credit card transaction forms by accepters.

2. a. Any person, firm, partnership, association or corporation which accepts credit cards used exclusively for credit card transactions shall only use credit card forms which:

(1) are carbonless;

(2) after the transaction is complete, do not render a separate piece of paper, carbon or otherwise, which readily identifies the cardholder by name or number, other than those necessary for use by the seller, credit cardholder and issuer to complete the credit card transaction;

(3) are carbonized backed forms that may be retained for recordkeeping purposes of the seller, the seller's agent or subcontractor, the issuer or the credit cardholder; or

(4) have a perforated or split carbon, half of which is disposable, and upon completion of the transaction the disposable portion of the carbon renders only half of the cardholder's name and account number.

b. No person, firm, partnership, association or corporation which accepts credit cards for the transaction of business shall be deemed to have violated the provisions of subsection a. of this section, if that person, firm, partnership, association or corporation shows by a preponderance of evidence that the violation was not intentional and resulted from bona fide error made notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

c. The provisions of subsection a. of this section shall not apply to forms used for a special purpose incidental to the credit card transaction but related to shipping, delivery or installment of purchased merchandise or special orders.

C.56:11-26 Violations, fines.

3. A violation of section 1 of this act shall be punishable by a civil fine not to exceed $1,000. A violation of section 2 of this act, if the violation constitutes the first offense by the person shall be punishable by a civil fine not to exceed $250. The second offense and any offense committed thereafter shall be punishable by a civil fine not to exceed $1,000.

C.56:11-27 Injunctive relief.

4. Whenever there shall be a violation of this act an application may be made by the Attorney General in the name of the people of the State to a court having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant

of not less than five days, to enjoin and restrain the continuance of the violation; and if it shall appear to the satisfaction of the court that the defendant has, in fact, violated this act, an injunction may be issued by the court, enjoining and restraining any further violations, without requiring proof that any person has in fact, been injured or damaged thereby.

5. This act shall take effect on January 1, 1991 or the 180th day following enactment, whichever is later.

Approved January 18, 1992.

CHAPTER 483

AN ACT to establish a right of first refusal for owners of mobile homes in a mobile home park upon the sale or offering for sale of such a park in certain cases, and to provide for the acquisition and management of such a park by an association of the mobile home owners therein, and supplementing P.L.1973, c.153 (C.46:8C-1 et seq.).

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

C.46:8C-10 Definitions.

1. a. For the purposes of this act, "mobile home" means a "manufactured home" located in a "mobile home park," as those terms are defined in section 3 of the "Manufactured Home Taxation Act," P.L.1983, c.400 (C.54:4-1.4).

b. As used in sections 2 and 3 of this act, "notify" means to place in the United States mail a notice addressed to the officers of the homeowners' association. Each such notice shall be deemed to have been given upon the deposit thereof in the United States mail.

c. As used in section 2 of this act, "offer" means any solicitation by the park owner to the general public.

C.46:8C-11 Rights of homeowners on offer for sale.

2. a. If a mobile home park owner offers a mobile home park for sale, he shall notify the board of directors of the homeowners' association created pursuant to this act of his offer, stating the price and the terms and conditions of sale.

b. The mobile home owners, by and through an association duly formed in accordance with section 6 of this act, shall have the right to purchase the park, provided two-thirds of the unit owners in the mobile home park have approved the purchase, and further provided that the home owners meet the price and terms and conditions of the mobile home park owner by executing a contract with the park owner within 45 days of being notified under subsection a., except as an extension of time may be mutually agreed upon by the owner and the association; provided, however, that if there is no homeowners' association at the time a mobile home park owner offers a mobile home park for sale and the park owner notifies homeowners individually as required under subsection b. of section 6 of this act, the period within which the terms and conditions of the mobile home park owner may be met by execution of a contract between the owner and a homeowners' association shall be 60 days from the date of the notification of individual homeowners and at any time after notification to the park owner that a homeowners' association has been formed, in accordance the provisions of subsection a. of section 7 of this act. If a contract between the park owner and the association is not executed within that extension period, then, unless the park owner thereafter elects to offer the park at the same price or at a lower price than specified in his notice to the directors of the association, he shall have no further obligations under this subsection, and his only obligation shall be as set forth in section 3 of this act.

c. If the park owner thereafter elects to offer the park at the same price or at a lower price than specified in his notice to the directors of the association pursuant to subsection a. of this section, the homeowners, by and through the association, shall have an additional 10 days after receipt of that offer to meet the price and terms of conditions of the park owner by executing a contract; provided, however, that if more than three months have elapsed since the receipt by the homeowners' association of the previous offer to sell the park under this subsection, the association shall have 30 days after receipt of the subsequent offer to meet the price and terms of conditions of the park owners by executing a contract.

C.46:8C-12 Rights of homeowners on offer to buy.

3. a. If a mobile home park owner receives a bona fide offer to purchase the park that he intends to consider or make a counteroffer to, he shall notify the directors of the homeowners' association within 10 business days of receiving the offer, if such an association has been formed in accordance with the provisions of sections 6 through 8 of this act, that he has received the offer.

If a homeowners' association has not been formed, the park owner shall, within 10 business days, notify individual homeowners as required under section 6 of this act. The park owner shall not conclude any agreement to sell the park until after the 30 day period therein specified has elapsed.

b. Upon receipt of such notice the board of directors of the homeowners' association shall appoint from among its members a committee, not exceeding three persons, who may be assisted by such legal and other professional and technical counsel as the board may provide, to receive from the park owner the price and terms of the offer that has been made, and to negotiate the terms upon which the park owner would be willing to sell the mobile home park to the homeowners' association. Members and assistants to the committee shall be pledged to maintain in confidence any information disclosed to them by the park owner in the course of such negotiations, and shall be personally liable to the park owner and any other party to the transaction for any damages resulting from unauthorized disclosure thereof.

c. Not later than the 30th day next following its receipt of offering terms pursuant to subsection b. of this section, or following a period of extension agreed to by the committee and the park owner, the committee appointed pursuant to subsection b. of this section shall report to the board of directors of the homeowners' association the price and other material terms upon which the mobile home park owner has agreed to sell the mobile home park to the association. In the absence of any agreement between the park owner and the committee, the park owner shall be deemed to agree to such sale upon the identical terms communicated by him to the committee pursuant to subsection a. of this section. The report of the committee shall include such supporting data and documentation as the committee and the park owner have agreed upon to be so submitted and authorized to be disclosed. The price and other terms so agreed upon and reported shall be binding upon the park owner for 10 days next following the submission of the committee's report, and if agreed to by the board of directors of the homeowners' association and consented to by two-thirds of the homeowners in that mobile home park shall constitute a contract of sale.

d. During the period provided for negotiations and for consideration by the association's board of directors under subsection c. of this section the park owner shall not conclude any agreement for sale of the mobile home park to any other party, but may negotiate with any other party as to terms and conditions of such an agreement, contingent upon the failure or refusal of the homeowners to exercise their prior right of purchase under this act.

C.46:8C-13 Rights not applicable to certain sales, etc.

4. The provisions of sections 2 and 3 of this act shall not apply to:

a. Any sale or transfer of the property of a mobile home park which is not made in contemplation of changing that property to a use or uses other than as a mobile home park.

b. Any sale or transfer to a person who would be included within the table of descent and distribution if the park owner were to die intestate.

c. Any transfer by gift, devise, or operation of law.

d. Any transfer by a corporation to an affiliate. As used herein, "affiliate" means (1) any shareholder exercising control, or control through attribution as defined under section 318 of the Internal Revenue Code, of the transferring corporation; (2) any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation; or (3) any other corporation or entity owned or controlled, directly or indirectly, by any shareholder of the transferring corporation. For the purposes of this subsection, control shall mean control as defined in section 304 of the Internal Revenue Code.

e. Any transfer by a partnership to any of its partners, whether general partners or limited partners, or partners or individuals to a corporation where the control of the corporation is substantially the same.

f. Any conveyance of an interest in a mobile home park incidental to the financing of that park.

g. Any conveyance resulting from the foreclosure of a mortgage, deed of trust, or other instrument encumbering a mobile home park, or any deed given in lieu of such foreclosure.

h. Any sale or transfer between or among joint tenants or tenants in common owning a mobile home park.

i. The purchase of a mobile home park by a governmental entity under its powers of eminent domain.

j. Any sale which occurs as a result of a condominium or cooperative conversion.

k. Any sale of real estate owned by the mobile home park owner which is adjacent to the mobile home park, but does not have appurtenant to it mobile home spaces or related recreational facilities.

C.46:8C-14 Compliance as prerequisite to recording.

5. In addition to other prerequisites for recording, no deed evidencing transfer of title to a mobile home park shall be recorded in the office of any county recording officer unless, accompany-

ing the application to transfer the title is an affidavit annexed thereto in which the owner of the mobile home park certifies:

a. with reference to an offer by him for the sale of the park, he has complied with the provisions of section 2 of this act; or

b. with reference to an offer received by him for the purchase of the park, or with reference to a counteroffer which he has made or intends to make to such an offer, he has complied with the provisions of section 3 of this act; or

c. notwithstanding his compliance with section 2 or 3 of this act, as applicable, no contract has been executed for the sale of the park between himself and the homeowners' association; or

d. the provisions of sections 2 and 3 of this act are not applicable to a particular sale or transfer of the park by him, and compliance therewith is not required; or

e. a particular sale or transfer of the park is exempted from the provisions of sections 2 through 5 of this act.

C.46:8C-15 Formation of association.

6. a. In order to exercise the rights provided in sections 2 and 3 of this act, the owners of mobile homes in a mobile home park shall form an association in compliance with this section and sections 7 and 8 of this act. Such an association shall be organized as a corporation or association either for profit or not for profit, upon the consent, in writing, of two-thirds of the owners of mobile homes in the park to become members or shareholders therein. For the purposes of this act, whenever the consent of homeowners is required on any question, there shall be counted only one vote for each mobile home unit. Upon consent by two-thirds of the homeowners, all consenting homeowners shall become members of the association and shall be bound by the provisions of the articles of incorporation, the bylaws of the association, and such restrictions as may be properly promulgated pursuant thereto. Upon incorporation and service of the notice described in section 7 of this act, the association shall become the representative of the mobile home owners in all matters relating to the provisions of this act.

b. If at the time when a park owner determines to offer a mobile home park for sale, or receives a bona fide offer from a prospective purchaser, there is no homeowners' association then in being in the mobile home park, the park owner shall, at least 15 days before proceeding to make such offer of sale, or within 10 business days of receiving such a bona fide offer, as the case may be, notify in writing each owner of a mobile home within the mobile home park that he

intends doing so. If, after receipt of such individual notices and within the period fixed by subsection b. of section 2 of this act for execution of a contract, a homeowners' association is formed pursuant to this act, the association so formed shall exercise and perform all the rights, duties and functions provided in this act on and from the day on which notification is made to the mobile home park owner pursuant to section 7 of this act.

C.46:8C-16 Association notice to park owner, recording.

7. a. Upon receipt of its certificate of incorporation, or, if the homeowners' association does not incorporate, upon its establishment, the homeowners' association shall notify the park owner in writing of such incorporation, or establishment, as appropriate, and shall advise the park owner of the names and addresses of the officers of the homeowners' association by personal delivery upon the park owner or by certified mail, return receipt requested.

b. The homeowners' association shall file with the clerk of the county in which the mobile home park is located a notice of its rights under sections 2 and 3 of this act. The notice shall contain the name of the association, the name of the park owner, and the address or legal description of the park. Within 10 days of the recording of the notice, the association shall provide a copy of the recorded notice to the park owner, at the address provided by the park owner, by certified mail, return receipt requested.

C.46:8C-17 Purpose of association.

8. a. The articles of incorporation of a homeowners' association or the bylaws of any unincorporated homeowners' association formed under this act shall provide:

(1) that the association has the power to negotiate for, acquire, and operate the mobile home park on behalf of the mobile home owners; and

(2) that the association shall convert the mobile home park, once acquired by the homeowners, to a condominium, a cooperative, or other type of ownership.

b. Upon acquisition of the property, the association shall be the entity that creates a condominium, or offers condominium parcels for sale or lease in the ordinary course of business, or, if the homeowners choose a different form of ownership, the entity that owns the record interest in the property and is responsible for the operation of property; provided, however, that if the association converts the mobile home park to a cooperative, an election shall be held within 30 days following the establishment of the cooperative to elect a board of directors of the cooperative.

C.46:8C-18 Governing bylaws; requisites.

9. In order for a homeowners' association to exercise the rights provided in section 2 or 3 of this act, the bylaws of the association shall provide for the following:

a. The directors of the association and the operation of the association shall be governed by the bylaws.

b. The bylaws shall include, and, if they do not, shall be deemed to include, the following provisions:

(1) The form of administration of the association shall be described, providing for the titles of the officers and for a board of directors, specifying the powers, duties, manner of selection and removal, and compensation, if any, of the officers and directors. Unless otherwise provided in the bylaws, the board of directors shall consist of five members. The board of directors shall elect from among its members a president, secretary, and treasurer, who shall perform the duties of those offices customarily performed by officers of corporations, and these officers shall serve without compensation and at the pleasure of the board of directors. The board of directors may appoint and designate other officers and assign them such duties as it deems appropriate.

(2) Meetings of the board of directors shall be open to all members of the homeowners' association, and notice of meetings shall be posted in a conspicuous place upon the park property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against members are to be considered for any reason shall specifically contain a statement that assessments will be considered, and of the nature of those assessments.

(3) Members of the association shall meet at least once each calendar year, and the meeting shall be the annual meeting. All members of the board of directors shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. The bylaws shall not restrict any member desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method for calling the meetings of the members, including annual meetings. The method shall provide at least 14 days' written notice to each member in advance of the meeting and require the posting in a conspicuous place on the park property of a notice at least 14 days prior to the meeting. Unless a member waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting and of any meeting other than the annual meeting in which acquisition or conversion

of the mobile home park as provided under section 8 of this act is to be voted on, shall be sent by mail to each member, and the mailing shall constitute notice. An officer of the association shall provide an affidavit affirming that the notices were mailed or hand delivered in accordance with the provisions of this section to each member at the address last furnished to the association. These meeting requirements shall not prevent members from waiving notice of meetings or from acting by written agreement without meetings, if allowed by the bylaws.

(4) A majority of the members shall constitute a quorum. Decisions shall be made by a majority of members represented at a meeting at which a quorum is present; provided, however, that any decision to acquire the mobile home park shall only be made by not less than two-thirds of all the homeowners and any decision to convert the mobile home park to a condominium or cooperative or other form of ownership following its acquisition by the homeowners' association shall only be made by not less than a majority vote of all of the members of the homeowners' association. In addition, provision shall be made in the bylaws for definition and use of proxy. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it.

(5) The board of directors shall mail a meeting notice and copies of the proposed annual budget of expenses to the members not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws provide that the budget may be adopted by the board of directors, the members shall be given written notice of the time and place at which the meeting of the board of directors to consider the budget will be held. The meeting shall be open to all members.

(6) The board of directors may, in any event, propose a budget to the members of the association at a general membership meeting or in writing, and, if the budget or proposed budget is approved by the members at the meeting, or by a majority of their whole number in writing, that budget shall be adopted.

(7) Minutes of all meetings of members and of the board of directors shall be kept in a businesslike manner and shall be available for inspection by members, or their authorized representatives, and board members at reasonable times. The association shall retain these minutes for a period of not less than seven years.

(8) The share or percentage of, and manner of sharing, expenses for each member shall be stated.

(9) The manner of collecting from the members their shares of the expenses for the maintenance of the park property shall be stated. Assessments shall be made against members not less frequently than quarterly, in amounts not less than are required to provide funds in advance for payments of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(10) The method by which the bylaws may be amended consistent with the provisions of this act shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by no less than two-thirds of the members. No bylaw shall be revised or amended by reference to its title only.

(11) The officers and directors of the association have fiduciary relationship to the members.

(12) Any member of the board of directors may be recalled and removed from office, with or without cause, by the vote of, or agreement in writing by, a majority of all members. A special meeting of the association membership to recall a member or members of the board of directors may be called by 10 per cent of the members giving notice of the meeting as required for a meeting of members, and the notice shall state the purpose of the meeting.

c. The bylaws may provide the following:

(1) A method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the park property.

(2) Restrictions on, and requirements respecting, the use and maintenance of mobile homes located within the park, and the use of the park property, so long as such restrictions and requirements are not inconsistent with the articles of incorporation of the association.

(3) Other provisions not inconsistent with the provisions of this act or with other documents governing the park property or mobile homes located therein.

d. No amendment to the bylaws may change the proportion or percentage by which members share in the expenses as initially established, unless all the members affected by such change approve the amendment.

C.46:8C-19 Powers, duties of the association.

10. a. An association may contract, sue, or be sued, with respect to the exercise or non-exercise of its powers. For these

purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the park property. The association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all homeowners concerning matters of common interest, including, but not limited to: the common property; structural components of a building or other improvements; mechanical, electrical and plumbing elements serving the park property; and protests of ad-valorem taxes on commonly used facilities. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common-law right of any individual homeowner or class of homeowners to bring any action which may otherwise be available.

b. The powers and duties of an association include those set forth in this section, in sections 6 and 9 of this act, and in the articles of incorporation and bylaws and any recorded declarations or restrictions encumbering the park property, if not inconsistent with the provisions of this act.

c. An association has the power to make and collect assessments and to lease, maintain, repair and replace the common areas upon purchase of the mobile home park.

d. An association shall maintain financial records in accordance with generally accepted accounting standards and principles. The records shall be open to inspection by association members or their authorized representatives at reasonable times, and written summaries of such records shall be supplied at least annually to the members or their authorized representatives. The failure of the association to permit inspection of its accounting records by members or their authorized representatives entitles any persons prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the books and records who, directly or indirectly, knowingly denied access to the books and records for inspection. The records shall include, but not be limited to:

(1) A record of all receipts and expenditures.

(2) An account for each member, designating the name and current mailing address of the member, the amount of each assessment, the dates on which and amounts in which the assessments come due, the amount paid on the account, and the balance due.

e. An association has the power to purchase lots in the park and to acquire, hold, lease, mortgage and convey them.

f. An association shall use its best efforts to obtain and maintain adequate insurance to protect the association and the park property upon purchase of the mobile home park. A copy of each policy of insurance in effect shall be made available for inspection by members at reasonable times.

g. An association has the authority, without the joinder of any homeowner, to modify, move, or create any easement for ingress and egress, or for the purpose of utilities, if the easement constitutes part of or crosses the park property upon purchase of the mobile home park. This subsection does not authorize the association to modify or move any easement created in whole or part for the use or benefit of anyone other than the members, or crossing the property of anyone other than the members, without the consent or approval of such person as required by law or the instrument creating the easement. Nothing in this subsection affects the rights of ingress or egress of any member of the association.

C.46:6C-20 Duties of park owner.

11. The owner of a mobile home park shall notify in writing each owner of a mobile home therein or, if a homeowners' association has been established under the provisions of this act, the directors of the association, of any application by the owner of the mobile home park for a variance within 10 days after the filing for such variance with the approving authority, if the granting of such variance would result in the removal or relocation of the mobile home owners residing in that mobile home park.

C.46:86-21 Relocations, variances, certain, prohibited.

12. No agency of municipal, county or State government, or of any agency or instrumentality thereof, shall approve or take any other final action upon any application for a variance which would result in the removal or relocation of mobile home owners residing in a mobile home park, without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of those mobile home owners.

13. This act shall take effect on the 90th day following enactment.

Approved January 18, 1992.

CHAPTER 484

AN ACT concerning implementation of the federal "Water Resources Development Act of 1986."

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

1. The Legislature finds and declares that the United States Army Corps of Engineers has developed a five-year plan under the "Water Resources Development Act of 1986" for navigation, shore protection, flood control, water supply, hydropower, and other related projects; that many of these projects are located in the State of New Jersey; that federal monies are available, on a cost-sharing basis, with which to undertake these projects; that the implementation of projects requires careful coordination between the State and the United States Army Corps of Engineers; and that to afford the State of New Jersey the maximum opportunity to secure this federal funding, it is necessary for the State to prepare a five-year plan integrated with the federal plan.

2. The Department of Environmental Protection shall, within 90 days of the effective date of this act, submit to the Governor and the Legislature a five-year plan to implement the projects authorized for New Jersey pursuant to the federal "Water Resources Development Act of 1986," Pub.L. 99-662, together with any recommendations for further administrative or legislative action. The plan shall include, but need not be limited to, a priority list of the authorized projects, an estimate of the State revenues required to match federal contributions on a project-by-project basis, an assessment of the resources and activities required to implement projects and the assignment of responsibilities for these activities to the appropriate agency, a schedule for the implementation of each project through completion of construction, and a list of non-authorized projects in which the department has an interest and which the Corps can be requested to study. The department shall update the five-year plan as necessary to reflect changes in federal law.

3. The Department of Environmental Protection shall investigate the feasibility of using funds made available under section 22 of the federal "Water Resources Development Act of 1974,"

42 U.S.C. §1962d-16, to finance the preparation of the plan required pursuant to section 2 of this act.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 485

AN ACT directing the Chancellor of Higher Education to establish a Minority Undergraduate Fellowship Program, supplementing chapter 72 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C.18A:72M-1 Definitions.

1. As used in this act:

"Eligible discipline" means an academic discipline in which minority individuals are underrepresented as determined by the State Board of Higher Education.

"Minority" means any person who is a member of a racial-ethnic group that has been historically disadvantaged in obtaining access to equal educational opportunities.

"Program" means the Minority Undergraduate Fellowship Program established pursuant to this act.

C.18A:72M-2 Minority Undergraduate Fellowship Program.

2. The Chancellor of Higher Education shall establish a Minority Undergraduate Fellowship Program within the Department of Higher of Education. The purpose of the program is to identify academically talented minority undergraduate students who may be interested in pursuing an academic career in an eligible discipline at a public or independent institution of higher education within the State, and to provide such students with the institutional and faculty support necessary to assist them in reaching that goal.

C.18A:72M-3 Procedures to select fellows in the program, advisor duties.

3. The chancellor shall establish policies and procedures for the nomination and selection as program fellows of academically talented minority undergraduate students who are in their junior year of study at a public or independent college or university within the State. Upon the selection of program fellows, the insti-

tution in which each student who is selected is enrolled shall assign to the student a faculty advisor who shall do the following:

a. Supervise a research project conducted by the fellow during the junior year or actively involve the student in a project which the advisor is conducting;

b. Supervise the fellow as an undergraduate teaching assistant in the fellow's senior year of study;

c. Accompany the fellow to the annual meeting of the professional association of the fellow's academic discipline; and

d. Assist the fellow in the selection of a graduate or professional school.

C.18A:72M-4 Stipends.

4. Each fellow shall receive a stipend in the amount of $1,000 per semester during the senior year of study and $500.00 for travel expenses. Each faculty advisor shall receive a stipend in the amount of $500.00 per semester for two semesters.

C.18A:72M-5 Evaluation of program.

5. The chancellor shall periodically evaluate the impact of the program on the representation of college and university minority faculty members with graduate degrees in eligible disciplines.

C.18A:72M-6 Rules, regulations.

6. The State Board of Higher Education shall 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.

C.18A:72M-7 Use of Minority Faculty loan funds.

7. The Department of Higher Education may utilize funding received under the Minority Faculty Advancement Loan and Loan Redemption Program Act," P.L.1984, c.189 (C.18A:72F-1 et seq.) in making payments under this act.

8. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 486

AN ACT concerning eligibility for unemployment compensation under certain circumstances and amending R.S.43:21-19 and supplementing P.L.1948, c.110 (C.43:21-25 et seq.) and chapter 15 of Title 34 of the Revised Statutes..

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

1. R.S.43:21-19 is amended to read as follows:

Definitions.

43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et seq.), unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three or five preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior three or five calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means the average of the annual payrolls of any employer on which he paid contributions to the State disability benefits fund for the last three or five preceding calendar years, whichever average is higher; provided further that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the beginning of the 12-month period for which the employer's contribution rate is computed.

(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R.S.43:21-1 et seq.), with respect to his unemployment.

(c) (1) "Base year" with respect to benefit years commencing on or after January 1, 1953, shall mean the 52 calendar weeks ending with the second week immediately preceding an individual's benefit year. "Base year" with respect to benefit years commencing on or after July 1, 1986, shall mean the first four of

the last five completed calendar quarters immediately preceding an individual's benefit year.

(2) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the "Temporary Disability Benefits Law," P.L. 1948, c.110 (C.43:21-25 et seq.), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period defined as a period of disability by section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual who files a claim under the provisions of this paragraph (2) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(3) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the workers' compensation law (chapter 15 of Title 34 of the Revised Statutes), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the period of disability was not longer than two years, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and if the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period from the time at which the individual becomes unable to work because of the compensable disability until the time that the individual becomes able to resume work and continue work on a permanent basis. An individual who files a claim under the provisions of this paragraph (3) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with

subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of this subsection if (1) he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of R.S.43:21-4.

(e) (1) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by the division.

(2) "Controller" means the Office of the Assistant Commissioner for Finance and Controller of the Department of Labor, established by the 1982 Reorganization Plan of the Department of Labor.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by R.S.43:21-7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions, as provided in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(2) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all the assets thereof, of another which, at the time of such acquisition, was an employer subject to this chapter (R.S.43:21-1 et seq.);

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units is owned or controlled (by legally enforceable means or otherwise), directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit or interest, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of the "unemployment compensation law" for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required pursuant to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

(8) (Deleted by amendment; P.L.1977, c.307.)

(9) (Deleted by amendment; P.L.1977, c.307.)

(10) (Deleted by amendment; P.L.1977, c.307.)

(11) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding

calendar year, except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section;

(12) Any employing unit for which agricultural labor in employment as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31, 1977;

(14) Any employing unit which having become an employer under the "unemployment compensation law" (R.S.43:21-1 et seq.), has not under R.S.43:21-8 ceased to be an employer; or for the effective period of its election pursuant to R.S.43:21-8, any other employing unit which has elected to become fully subject to this chapter (R.S.43:21-1 et seq.).

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from "employment" under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions, if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the Federal Unemployment Tax Act, solely by reason of section 3306 (c) (8) of that act, if such service is not excluded from "employment" under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization, or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in R.S.43:21-19 (i) (1) (B), if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policy making or advisory position, or a policy making or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any federal agency or an agency of a state or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada

and in the case of the Virgin Islands, after December 31, 1971 and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands, under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. §3304 (a)) in the employ of an American employer (other than the service which is deemed employment under the provisions of R.S.43:21-19 (i) (2) or (5) of the parallel provisions of another state's unemployment compensation law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of another state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State;

(iv) An "American employer," for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership, if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States; or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R.S.43:21-19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state

unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the "unemployment compensation law" (R.S.43:21-1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R.S.43:21-19 (i) includes the states, the District of Columbia, the Commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. §3304 (a)) an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more for individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time.

(ii) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a certification of registration under the Migrant and Seasonal Agricultural Work Protection Act, Pub. L. 97-470 (29 U.S.C. §1801 et seq.), or P.L.1971, c.192 (C.34:8A-7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor or any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purpose of subparagraph (I) (i), the term "crew leader" means an individual who

(aa) furnishes individuals to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) Domestic service after December 31, 1977 performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if the individual performing such

services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) unless and until it is shown to the satisfaction of the division that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempt under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a state unemployment fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time;

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions, except as provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the Federal Unemployment Tax Act, as amended, except as provided in R.S.43:21-19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of any instrumentality of the United States except under the Constitution of the United States from the contributions imposed by the "unemployment compensation law," except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the federal Internal Revenue Code of 1986 (26 U.S.C. §3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R.S.43:21-14 (f) with respect to contributions erroneously paid to or collected by the division;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself

operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents;

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan, or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

(K) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis;

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

(M) Service performed for or in behalf of the owner or operator of any theatre, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than $1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses;

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organizations Immunities Act (22 U.S.C. §288 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or federal unemployment compensation or employment security law, in accordance with an arrangement pursuant to R.S.43:21-21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an educational program or completing such educational program leading to a degree at any of the severally recognized levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school approved pursuant to the laws of this State;

(W) Services performed after the effective date of this amendatory act by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis;

(X) Services performed by operators of motor vehicles weighing 18,000 pounds or more, licensed for commercial use and used for the highway movement of motor freight, who own their equipment or who lease or finance the purchase of their equipment through an entity which is not owned or controlled directly or indirectly by the entity for which the services were performed and who were compensated by receiving a percentage of the gross revenue generated by the transportation move or by a schedule of payment based on the distance and weight of the transportation move;

(Y) Services performed by a certified shorthand reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third party by the reporter who is referred to the third party pursuant to an agreement with another certified shorthand reporter or shorthand reporting service, on a free-lance basis, compensation for which is based upon a fee per transcript page, flat attendance fee, or other flat minimum fee, or combination thereof, set forth in the agreement.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(9) Services performed by the owner of a limousine franchise (franchisee) shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., with regard to the franchisor if:

(A) The limousine franchisee is incorporated;

(B) The franchisee is subject to regulation by the Interstate Commerce Commission;

(C) The limousine franchise exists pursuant to a written franchise arrangement between the franchisee and the franchisor as defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

(D) The franchisee registers with the Department of Labor and receives an employer registration number.

(j) "Employment office" means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.

(k) (Deleted by amendment, P.L.1984, c.24.)

(l) "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands and Puerto Rico.

(m) "Unemployment."

(1) An individual shall be deemed "unemployed" for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided such vacation is not the result of the individual's voluntary action, except that for benefit years commencing on or after July 1, 1984, an officer of a corporation, or a person who has more than a 5% equitable or debt interest in the corporation, whose claim for benefits is based on wages with that corporation shall not be deemed to be unemployed in any week during the individual's term of office or ownership in the corporation.

(2) The term "remuneration" with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or $5.00, whichever is the larger.

(3) An individual's week of unemployment shall be deemed to commence only after the individual has filed a claim at an unemployment insurance claims office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R.S.43:21-1 et seq.), from which administrative expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

(o) "Wages" means remuneration paid by employers for employment. If a worker receives gratuities regularly in the

course of his employment from other than his employer, his "wages" shall also include the gratuities so received, if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount of remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commission and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means for benefit years commencing on or after October 1, 1984, the calendar week ending at midnight Saturday, or as the division may by regulation prescribe.

(r) "Calendar quarter" means the period of three consecutive calendar months ending March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

(t) (1) "Base week" for a benefit year commencing prior to October 1, 1984, means, except as otherwise provided in paragraph (2) of this subsection, any calendar week of an individual's base year during which he earned in employment from an employer remuneration equal to not less than $30.00."Base week" for a benefit year commencing on or after October 1, 1984 and prior to October 1, 1985 means any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration equal to not less than 15% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3, which shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof.

"Base week" for a benefit year commencing on or after October 1, 1985 means, except as otherwise provided in paragraph (2) of this subsection, any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration equal to not less than 20% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3 which shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof; provided if in any calendar week an individual is in employment with more than one employer, he may in such calendar week establish a base week with respect to each such employer from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (1) during such week.

(2) "Base week," with respect to an individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops, means, for a benefit year commencing on or after October 1, 1984 and before January 1, 1985, any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration equal to not less than $30.00, except that if in any calendar week an individual subject to this paragraph is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (2) during that week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

For the purpose of computing the average weekly wage, the monetary alternative in subsection (e) of R.S.43:21-4 shall only apply in those instances where the individual did not have at least 20 base weeks in the base year. For benefit years commencing on or after July 1, 1986, "average weekly wage" means the amount derived by dividing an individual's total base year wages by the number of base weeks worked by the individual during the base year; provided that for the purpose of computing the average weekly wage, the maximum number of base weeks used in the divisor shall be 52.

(v) "Initial determination" means, subject to the provisions of R.S.43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. For benefit years commencing prior to July 1,1986, subject to the provisions of R.S.43:21-3 (d) (3), if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

(w) "Last date of employment" means the last calendar day in the base year of an individual on which he performed services in employment for a given employer.

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed service in employment in the base year.

(y) (1) "Educational institution" means any public or other nonprofit institution (including an institution of higher education):

(A) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor (s) or teacher (s);

(B) Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

C.43:21-30.1 Notice of unemployment compensation, conditions.

2. The Division of Unemployment and Temporary Disability Insurance shall provide notice to each individual receiving compensation under the provisions of the "Temporary Disability Benefits

Law," P.L.1948, c.110 (C.43:21-25 et seq.) explaining the conditions under which the individual may receive unemployment compensation pursuant to this 1991 amendatory and supplementary act.

C.34:15-57a Notice of unemployment compensation, conditions.

3. The Division of Workers' Compensation shall provide notice to each individual receiving compensation under the provisions of the workers' compensation law (chapter 15 of Title 34 of the Revised Statutes), explaining the conditions under which the individual may receive unemployment compensation pursuant to this 1991 amendatory and supplementary act.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 487

AN ACT concerning fire safety, and supplementing P.L.1983, c.383 (C.52:27D-192 et seq.).

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

C.51:13-1 Lighters, certain, sales, etc. prohibited; definitions.

1. On and after January 1, 1994, no lighter shall be sold, offered for sale, given, transferred, or otherwise be assigned, furnished or made available in the State of New Jersey unless its design and construction conforms with the child resistant standards adopted pursuant to the provisions of section 3 of P.L.1991, c.487 (C.51:13-3).

"Child resistant lighter" means a lighter that is designed and constructed in a manner so that it is significantly difficult for a child under the age of 5 years to operate the device so as to produce a flame or to emit a flammable liquid, vapor, or gas.

"Lighter" means a mechanical flame producing device, be it of a disposable or refillable nature, designed for the purpose of lighting a fire, cigarette, cigar, or pipe, provided, however, that the term shall not include those mechanical flame producing devices that are refillable and have a gross fueled weight of at least 35 grams.

C.51:13-2 Violations, fines.

2. Any person violating the provisions of section 1 of P.L.1991, c.487 (C.51:13-1) by selling, offering for sale, giving,

transferring, or otherwise assigning, furnishing or making available a lighter that does not conform to the standards adopted under the provisions of section 3 of P.L.1991, c.487 (C.51:13-3) shall be fined $100 for each offense. Each lighter not conforming to those standards that is so sold, offered for sale, given, transferred, or otherwise assigned, furnished or made available shall constitute a separate offense.

C.51:13-3 Rules, regulations.

3. Within 18 months of the effective date of this act, the Bureau of Fire Safety in the Department of Community Affairs 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 to effectuate the purposes of this act. The rules and regulations so promulgated shall include, but not be limited to, standards for the design and construction of child resistant lighters.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 488

AN ACT concerning the development of a Lyme Disease information curriculum 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:35-5.1 Lyme Disease curriculum guidelines.

1. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for the teaching of information on the prevention of Lyme Disease within the public school health curriculum. The guidelines shall emphasize disease prevention and sensitivity for victims of the disease. The Commissioner of Education shall periodically review and update the guidelines to insure that the curriculum reflects the most current information available.

C.18A:35-5.2 Availability of guidelines.

2. The commissioner shall make the curriculum guidelines available to all school districts in the State and shall encourage

their adoption by those districts which are located in areas of the State which have a high incidence of Lyme Disease.

C.18A:35-5.3 Guidelines for, training of teachers instructing infected students.

3. The Commissioner of Education, in consultation with the Commissioner of Health, shall also provide curriculum guidelines for the training of all teachers who instruct students with Lyme disease which emphasizes the special needs and problems of students with the disease, in order to provide information about how best to teach those students. Each school district shall annually provide training to all teachers who instruct students with Lyme disease, based upon the guidelines.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 489

AN ACT concerning penalties for certain fire safety violations and amending and supplementing P.L.1983, c.383.

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

1. Section 19 of P.L.1983, c.383 (C.52:27D-210) is amended to read as follows:

C.52:27D-210 Additional violations; penalties.

19. a. No person shall:

(1) Obstruct, hinder, delay or interfere by force or otherwise with the commissioner or any local enforcing agency in the exercise of any power or the discharge of any function or duty under the provisions of this act;

(2) Prepare, utter or render any false statement, report, document, plans or specification permitted or required under the provisions of this act;

(3) Render ineffective or inoperative, or fail to properly maintain, any protective equipment or system installed, or intended to be installed, in a building or structure;

(4) Refuse or fail to comply with a lawful ruling, action, order or notice of the commissioner or a local enforcing agency; or

(5) Violate, or cause to be violated, any of the provisions of this act.

b. (1) A person who violates or causes to be violated a provision of subsection a. of this section shall be liable to a penalty of not more than $5,000 for each violation. If a violation of subsection a. of this section is of a continuing nature, each day during which the violation remains unabated after the date fixed in an order or notice for the correction or termination of the continuing violation shall constitute an additional and separate violation, except while an appeal from the order is pending.

(2) If an owner has been given notice of the existence of a violation of the act and fails to abate the violation, he shall be liable to an additional penalty of not more than $50,000. If a violation is of a continuing nature, each day during which the violation remains unabated shall not constitute an additional and separate violation for the purposes of the penalty in this paragraph.

(3) An additional $150,000 or the actual cost, whichever is greater, may be imposed as a penalty for the expense to the municipality or fire district of suppressing any fire, directly or indirectly, resulting from the unabated violation and for any other actual expenses, including attorney fees, incurred by the municipality for the enforcement of the violation.

c. The commissioner or a local enforcing agency may levy and collect penalties in the amounts set forth in this section, but not in excess of the maximum amounts that the commissioner shall establish by regulation for different types of violations. If the administrative penalty order has not been satisfied by the 30th day after its issuance, the penalty may be sued for, and recovered by and in the name of the commissioner or the enforcing agency, as the case may be, in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) in the Superior Court or municipal court. All moneys recovered in the form of penalties by a municipality shall be paid into the treasury of the municipality and shall be appropriated for the enforcement of the act; except that the additional penalty paid by an owner to a municipality under paragraphs (2) or (3) of subsection b. of this section shall be placed in a special municipal trust fund to be applied to the municipality's or fire district's cost of firefighter training and new equipment. A person who fails to pay immediately a money judgment rendered against him pursuant to this subsection

may be sentenced to imprisonment by the court for a period not exceeding six months, unless the judgment is sooner paid.

d. A person shall be deemed to have violated or caused to have violated a provision of subsection a. of this section if an officer, agent or employee under his control and with his knowledge has violated or caused to have violated any of the provisions of subsection a. of this section.

e. Upon request of the owner or purchaser of a building or structure, the enforcing agency having jurisdiction over the building or structure shall issue a certificate either enumerating the violations indicated by its records to be unabated and the penalties or fees indicated to be unpaid, or stating that its records indicate that no violations remain unabated and no penalties or fees remain unpaid.

f. A person who purchases a property without having obtained a certificate stating that there are no unabated violations of record and no unpaid fees or penalties shall be deemed to have notice of all violations of record and shall be liable for the payment of all unpaid fees or penalties.

C.52:27D-198.5 Regulations to designate time to correct violations, range of penalties.

2. The Commissioner of Community Affairs, after consulting with the fire safety commission, shall promulgate regulations in accordance with the powers granted by P.L.1983, c.383 (C.52:27D-192 et seq.) to list violations of the uniform fire safety code as promulgated pursuant to section 7 of P.L.1983, c.383 (C.52:27D-198), designate the period of time within which each such violation is to be corrected by the owner pursuant to a written order issued and served by an enforcing agency, and establish a range of monetary penalties which may be imposed for violations pursuant to paragraph (2) of subsection b. of section 19 of P.L.1983, c.383 (C.52:27D-210). In addition, the regulations shall specify those violations which by their nature constitute an imminent hazard to the health, safety or welfare of the occupants, intended occupants, firefighters, or the general public and require the building, structure or premises to be vacated, closed or removed pursuant to section 17 of P.L.1983, c.383 (C.52:27D-208).

These regulations shall be adopted by the commissioner within 180 days after the effective date of P.L.1991, c.489 (C.52:27D-210 et al.).

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 490

AN ACT establishing continuing education requirements for dentists and supplementing chapter 6 of Title 45 of the Revised Statutes.

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

C.45:6-10.1 Continuing dental education required.

1. The New Jersey State Board of Dentistry shall require each person licensed as a dentist, as a condition for biennial registration pursuant to R.S.45:6-10 and P.L.1972, c.108 (C.45:1-7), to complete 40 credits of continuing dental education as provided in section 2 of this act during each biennial registration period.

C.45:6-10.2 Standards for continuing education.

2. a. The board shall:

(1) Establish standards for continuing dental education, including the subject matter and content of courses of study;

(2) Accredit educational programs offering credit towards the continuing dental education requirements; and

(3) Accredit other equivalent educational programs, including, but not limited to, meetings of constituents and components of dental professional associations recognized by the board, examinations, papers, publications, scientific presentations, teaching and research appointments, table clinics and scientific exhibits, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses or programs, each hour of instruction shall be equivalent to one credit.

C.45:6-10.3 Compliance and evaluation.

3. The board may:

a. Establish procedures for monitoring compliance with the continuing dental education requirements; and

b. Establish procedures to evaluate and grant approval to providers of continuing dental education courses.

C.45:6-10.4 Hardship waivers.

4. The board may in its discretion, waive requirements for continuing dental education on an individual basis for reasons of hardship such as illness or disability, retirement of the license, or other good cause.

C.45:6-10.5 Initial registration.

5. The board shall not require completion of continuing dental education credits for initial registration.

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C.45:6-10.6 Phase-in of requirements.

6. a. The board shall not require completion of continuing dental education credits for any registration periods commencing within 12 months of the effective date of this act.

b. The board shall require completion of continuing dental education credits on a pro rata basis for any registration periods commencing more than 12 but less than 24 months following the effective date of this act.

C.45:6-10.7 Proof of credits.

7. The board shall accept as proof of completion of continuing education program credits documentation submitted by a person licensed as a dentist or by any entity offering a continuing education program approved by the board pursuant to section 2 of this act.

C.45:6-10.8 Enforcement of requirements.

8. Any person who fails to complete the continuing dental education requirements established pursuant to section 1 of this act shall be liable to a civil penalty of not more than $500 or additional hours of continuing dental education, or both, as imposed by the board, for a first offense. A second or subsequent offense by a licensee shall be considered professional misconduct pursuant to the provisions of chapter 6 of Title 45 of the Revised Statutes and P.L.1978 c.73 (C.45:1-14 et seq.).

C.45:6-10.9 Differential fees of dental associations.

9. The board shall permit any dental association offering a continuing education program approved by the board pursuant to section 2 of this act to impose a reasonable differential in registration fees for courses upon licensed dentists who are not members of that dental association.

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

Approved January 18, 1992.

CHAPTER 491

AN ACT concerning motor carrier operators and vehicles and amending P.L.1985, c.415.

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

1. Section 3 of P.L.1985, c.415 (C.39:5B-32) is amended to read as follows:

C.39:5B-32 Rules and regulations.

3. a. The Superintendent of the State Police shall adopt, within six months of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the qualifications of interstate motor carrier operators and vehicles, which shall substantially conform to the requirements established pursuant to sections 401 to 404 of the "Surface Transportation Assistance Act of 1982," Pub.L.97-424 (49 U.S.C. App. §§ 2301-2304).

b. The superintendent, in consultation with the Division of Motor Vehicles in the Department of Law and Public Safety and with the Department of Transportation, shall revise and readopt, within six months of the effective date of P.L.1991, c.491, the rules and regulations adopted pursuant to subsection a. of this section to provide that the regulations:

(1) Substantially conform to the requirements concerning the qualifications of interstate motor carrier operators and vehicles established pursuant to sections 401 to 404 of the "Surface Transportation Assistance Act of 1982," Pub.L.97-424 (49 U.S.C. App. §§ 2301-2304) and the federal "Motor Carrier Safety Act of 1984," Pub.L.98-554 (49 U.S.C. App. § 2501 et seq.); and

(2) Include provisions with regard to motor carrier operators and vehicles engaged in intrastate commerce or used wholly within a municipality or a municipality's commercial zone, except for farm vehicles registered pursuant to R.S.39:3-24 and R.S.39:3-25, that are compatible with federal rules and regulations.

c. Notwithstanding any provision of law or regulation to the contrary, no person shall operate a commercial motor vehicle, as defined in rules adopted pursuant to this section, in this State unless the operation of the commercial motor vehicle is in accordance with the rules adopted by the Superintendent of State Police pursuant to this section.

The rules adopted pursuant to this section shall include rules concerning protection against shifting or falling cargo contained in 49 C.F.R. §§ 393.100 to 393.106.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 492

AN ACT concerning age requirements for appointment as a policeman and amending P.L.1979, c.461.

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

1. Section 1 of P.L.1979, c.461 (C.40A:14-127.1) is amended to read as follows:

C.40A:14-127.1 Reappointment of former law enforcement officers.

1. Notwithstanding the provisions of any other law to the contrary, any former State trooper, sheriff's officer or deputy, county or municipal policeman who has separated from service voluntarily or involuntarily other than by removal for cause on charges of misconduct or delinquency, shall be deemed to meet the maximum age requirement for appointment established by N.J.S.40A:14-127, if his actual age, less the number of years of his previous service as a law enforcement officer, would meet the maximum age requirement established by said section, but no person may be appointed who is over the age of 45 as of the date of his reappointment; except that in the case of a State trooper, sheriff's officer or deputy, county or municipal policeman whose separation from service was involuntary due to a layoff or reduction in force, such person shall be deemed to meet the maximum age requirement for appointment by complying with the procedure established hereinbefore without regard to his actual age at the time of reappointment.

2. Section 2 of P.L.1979, c.461 (C.40A:14-127.2) is amended to read as follows:

C.40A:14-127.2 Other qualifications.

2. No former State trooper, sheriff's officer or deputy, or county or municipal policeman who meets the age requirements for reappointment under the provisions of section 1 of P.L.1979, c.461 (C.40A:14-127.1) shall be exempt from meeting the general qualifications for appointment provided in N.J.S.40A:14-122.

3. Section 3 of P.L.1979, c.461 (C.40A:14-127.3) is amended to read as follows:

C.40A:14-127.3 Rate of pension contributions.

3. The Board of Trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the

retirement system any policeman otherwise eligible for membership appointed pursuant to section 1 of P.L.1979, c.461 (C.40A:14-127.1), provided that he shall contribute to the retirement system at a rate based on his current age at the time of reenrollment; except that in the case where reappointment occurs within two years following the person's separation and such person has not withdrawn his contributions from the retirement system pursuant to section 11 of P.L.1944, c.255 (C.43:16A-11), the person's rate of contribution upon reappointment shall be the same as it was at the time of separation.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 493

AN ACT concerning acquired immune deficiency syndrome and amending P.L.1945, c.169.

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

1. 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 by his parents, spouse or child, or 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 institution, 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 postsecondary school from using in good faith criteria other than race, creed, color, national origin or ancestry, 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 his residence or the household of his 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 him as his residence or the household of his 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.

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 salesman" 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.

q. "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, wheel-

chair, 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 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 he 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.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 494

AN ACT concerning appointments by the county clerk and amending N.J.S.11A:3-5 and N.J.S.40A:9-74.

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

1. N.J.S.11A:3-5 is amended to read as follows:

Political subdivision unclassified service.

11A:3-5. Political subdivision unclassified service. The political subdivision unclassified service shall not be subject to the provisions of this title unless otherwise specified and shall include the following:

a. Elected officials;

b. One secretary and one confidential assistant to each mayor;

c. Members of boards and commissions authorized by law;

d. Heads of institutions;

e. Physicians, surgeons and dentists;

f. Attorneys of a county, municipality or school district operating under this title;

g. Teaching staff, as defined in N.J.S.18A:1-1, in the public schools and county superintendents and members and business managers of boards of education;

h. Principal executive officers;

i. One secretary, clerk or executive director to each department, board and commission authorized by law to make the appointment;

j. One secretary or clerk to each county constitutional officer, principal executive officer, and judge;

k. One deputy or first assistant to a principal executive officer who is authorized by statute to act for and in place of the principal executive officer;

l. No more than 12 county department heads and the heads of divisions within such departments; provided that the total number

of unclassified positions created by the county administrative code pursuant to this subsection shall not exceed 20;

m. One secretary or confidential assistant to each unclassified department or division head established in subsection l.;

n. Employees of county park commissions, appointed pursuant to R.S.40:37-96 through R.S.40:37-174, in counties of the second class;

o. Directors of free public libraries in cities of the first class having a population of more than 300,000;

p. One secretary to the municipal council in cities of the first class having a population of less than 300,000;

q. One secretary and one confidential aide for each member of the board of freeholders other than the director, and one secretary and two confidential aides for the freeholder director, of any county of the second class with a population of at least 470,000 which has not adopted the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) and one secretary or confidential aide for each member of the board of freeholders of any other county which has not adopted the provisions of the "Optional County Charter Law";

r. In school districts organized pursuant to N.J.S.18A:17-1 et seq., the executive controller, public information officer and the executive directors of board affairs, personnel, budget, purchasing, physical facilities, data processing, financial affairs, and internal audit;

s. The executive director, assistant executive director, director of staff operations, director of administration, director of redevelopment and the urban initiatives coordinator of a local housing authority;

t. The sheriff's investigators of any county appointed pursuant to P.L.1987, c.113 (C.40A:9-117a);

u. Any title as provided by statute or as the board may determine in accordance with criteria established by rule; and

v. One confidential aide for each county clerk, in addition to the titles included under subsection j. of this section.

2. N.J.S.40A:9-74 is amended to read as follows:

Personnel in office of county clerk.

40A:9-74. Personnel in office of county clerk.

Every county clerk may appoint a deputy clerk or two deputy clerks, one administrative and one judicial, to hold office during the pleasure of the county clerk. Upon occurrence of a vacancy in the office of a county clerk by expiration of term, death, resignation or otherwise, the deputy clerk, or the deputy clerk with

seniority in counties with two deputy clerks, shall have the same powers and perform all the duties of the office of county clerk until the vacancy is filled as provided by law.

During the absence or disability of the county clerk the deputy clerk or the deputy clerk with seniority, as appropriate, shall have the powers of the county clerk and perform the duties of the office.

The county clerk may appoint from among the employees in his office special deputy clerks to serve during his pleasure and prescribe their duties. No additional compensation shall be paid for such designation.

During the absence or disability of both the county clerk and deputy clerk or deputy clerk with seniority, as appropriate, the senior special deputy clerk shall have the powers of the county clerk and perform the duties of the office.

The county clerk shall select and employ necessary clerks and other employees. Every deputy clerk and special deputy clerk shall take and subscribe before a judge of the Superior Court an oath of office in like form and character as that required to be taken by the county clerk. Appointments and oaths of office shall be filed in the office of the county clerk.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 495

AN ACT concerning scrap steel and amending R.S.23:5-28.

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

1. R.S.23:5-28 is amended to read as follows:

Pollution of fresh or tidal waters, penalties.

23:5-28. a. No person shall put or place into, turn into, drain into, or place where it can run, flow, wash, or be emptied into, or where it can find its way into, any of the fresh or tidal waters within the jurisdiction of this State any petroleum products, debris, hazardous, deleterious, destructive, or poisonous sub-

stances of any kind; provided, however, that the use of any chemical by any State, county, or municipal government agency in any program of mosquito or other pest control or the use of any chemical by any person on agricultural, horticultural, or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control, in a manner approved by the Department of Environmental Protection, or discharges from facilities for the treatment or disposal of sewage or other wastes in a manner that conforms to rules and regulations promulgated by the Department of Environmental Protection, shall not constitute a violation of this section. Unintentional dropping of scrap steel into fresh or tidal waters of the State during loading of such scrap steel at ports within the State shall also not constitute a violation of this section if the dropped scrap steel is removed from the waters when that area of the port is next dredged.

b. In case of pollution of fresh or tidal waters by any substances injurious to fish, birds, or mammals, it shall not be necessary to show that the substances have actually caused the death of any of these organisms.

c. A person violating this section shall be liable to a penalty of not more than $6,000 for each offense, to be collected in a summary proceeding under "the penalty enforcement law," N.J.S.2A:58-1 et seq., and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce "the penalty enforcement law." If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances. The department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent any person from violating the provisions of this section and the court may proceed in the action in a summary manner.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 496

AN ACT concerning certain recreational vehicles and property owners' liability, amending and supplementing P.L.1968, c.73 and P.L.1985, c.431, and amending P.L.1973, c.307.

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

1. Section 1 of P.L.1968, c.73 (C.2A:42A-2) is amended to read as follows:

C.2A:42A-2 Definitions.

1. As used in this act "sport and recreational activities" means and includes: hunting, fishing, trapping, horseback riding, training of dogs, hiking, camping, picnicking, swimming, skating, skiing, sledding, tobogganing, operating or riding snowmobiles, all-terrain vehicles or dirt bikes, and any other outdoor sport, game and recreational activity including practice and instruction in any thereof. For purposes of P.L.1968, c.73 (C.2A:42A-2 et seq.) "all-terrain vehicle" means a motor vehicle, designed to travel over any terrain, of a type possessing between three and six rubber tires and powered by a gasoline engine not exceeding 600 cubic centimeters, but shall not include golf carts; "snowmobile" means any motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment, or any military vehicle; "dirt bike" means a motor powered vehicle possessing two or more tires, designed to travel over any terrain and capable of travelling off of paved roads, whether or not such vehicle is subject to registration with the Division of Motor Vehicles.

2. Section 2 of P.L.1968, c.73 (C.2A:42A-3) is amended to read as follows:

C.2A:42A-3 No duty to keep premises safe.

2. Except as provided in section 3 of this act:

a. An owner, lessee or occupant of premises, whether or not posted as provided in section 23:7-7 of the Revised Statutes, and whether or not improved or maintained in a natural condition, or used as part of a commercial enterprise, owes no duty to keep the premises safe for entry or use by others for sport and recreational

activities, or to give warning of any hazardous condition of the land or in connection with the use of any structure or by reason of any activity on such premises to persons entering for such purposes;

b. An owner, lessee or occupant of premises who gives permission to another to enter upon such premises for a sport or recreational activity or purpose does not thereby (1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

C.2A:42A-5.1 Liberal construction.

3. The provisions of P.L.1968, c.73 (C.2A:42A-2 et seq.) shall be liberally construed to serve as an inducement to the owners, lessees and occupants of property, that might otherwise be reluctant to do so for fear of liability, to permit persons to come onto their property for sport and recreational activities.

4. Section 1 of P.L.1985, c.431 (C.2A:42A-6) is amended to read as follows:

C.2A:42A-6 Limitation of liability.

1. An owner, lessee or occupant of agricultural or horticultural lands as defined in P.L.1983, c.522 (C.2C:18-4 et seq.) who grants permission to operate a motorized vehicle, snowmobile, all-terrain vehicle or dirt bike or to ride horseback thereon pursuant to subsection a. of section 2 of that act does not thereby: a. extend any assurance that the premises, including any natural or man-made conditions, are safe for the purposes set forth in that subsection; b. constitute the person to whom permission is granted an invitee or licensee to whom a duty of care is owed; or c. assume responsibility for, or incur liability for, an injury to person or property caused by the act of a person to whom the permission is granted.

C.2A:42A-6.1 Definitions.

5. For purposes of P.L.1985, c.431 (C.2A:42A-6 et seq.) "all-terrain vehicle" means a motor vehicle, designed to travel over any terrain, of a type possessing between three and six rubber tires and powered by a gasoline engine not exceeding 600 cubic centimeters, but shall not include golf carts; "snowmobile" means any motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats or

any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment, or any military vehicle; "dirt bike" means a motor powered vehicle possessing two or more tires, designed to travel over any terrain and capable of travelling off of paved roads, whether or not such vehicle is subject to registration with the Division of Motor Vehicles.

C.2A:42A-6.2 Liberal construction.

6. The provisions of P.L.1985, c.431 (C.2A:42A-6 et seq.) shall be liberally construed to serve as an inducement to the owners, lessees and occupants of property, that might otherwise be reluctant to do so for fear of liability, to permit persons to come onto their property for operating a motorized vehicle, snowmobile, all-terrain vehicle or dirt bike or to ride horseback.

7. Section 1 of P.L.1973, c.307 (C.39:3C-1) is amended to read as follows:

C.39:3C-1 Definitions.

1. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Environmental Protection.

b. "Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

c. "Snowmobile" means any motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment, or any military vehicle.

d. "Special event" means an organized race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

e. "All-terrain vehicle" means a motor vehicle, designed to travel over any terrain, of a type possessing between three and six rubber tires and powered by a gasoline engine not exceeding 600 cubic centimeters, but shall not include golf carts.

8. Section 18 of P.L.1973, c.307 (C.39:3C-18) is amended to read as follows:

C.39:3C-18 Operation on property of others; limitations of liability.

18. a. No person shall operate a snowmobile or all-terrain vehicle on the property of another without receiving the consent of the owner of the property and the person who has a contractual right to the use of such property.

b. No person shall continue to operate a snowmobile or all-terrain vehicle on the property of another after consent, as provided in subsection a. above, has been withdrawn.

c. No owner of real property and no person or entity having a contractual right to the use of real property, no matter where such property is situate in this State, shall assume responsibility or incur liability for any injury or damage to an owner, operator or occupant of a snowmobile or all terrain vehicle where such injury or damage occurs during, or arises out of the operation or use of such vehicle, unless: (1) the operation or use is with the express consent of the owner and contractual user of the property and (2) the provisions of P.L.1968, c.73 (C.2A:42A-2 et seq.) or P.L.1985, c.431 (C.2A:42A-6 et seq.) do not limit liability. This subsection shall not limit the liability which would otherwise exist for the willful or malicious creation of a hazardous condition.

9. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 497

AN ACT concerning tax exemptions for receipts from the sales of buses for public transportation and amending P.L.1980, c.105.

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

1. Section 40 of P.L.1980, c.105 (C.54:32B-8.28) is amended to read as follows:

C.54:32B-8.28 Buses for public transportation.

40. Receipts from sales of buses for public passenger transportation, including repair and replacement parts and labor therefor, to bus companies whose rates are regulated by the Interstate

Commerce Commission or the Department of Transportation or to an affiliate of said bus companies or to common or contract carriers for their use in the transportation of children to and from school are exempt from the tax imposed under the Sales and Use Tax Act. For the purposes of this section "affiliate" means a corporation whose stock is wholly owned by the regulated bus company or whose stock is wholly owned by the same persons who own all the stock of the regulated bus company.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 498

AN ACT concerning the penalties for arson in certain circumstances and amending N.J.S.2C:17-1.

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

1. N.J.S.2C:17-1 is amended to read as follows:

Arson and related offenses.

2C:17-1. Arson and related offenses.

a. Aggravated arson. A person is guilty of aggravated arson, a crime of the second degree, if he starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby purposely or knowingly placing another person in danger of death or bodily injury; or

(2) With the purpose of destroying a building or structure of another; or

(3) With the purpose of collecting insurance for the destruction or damage to such property under circumstances which recklessly place any other person in danger of death or bodily injury.

b. Arson. A person is guilty of arson, a crime of the third degree, if he purposely starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby recklessly placing another person in danger of death or bodily injury; or

(2) Thereby recklessly placing a building or structure of another in danger of damage or destruction; or

(3) With the purpose of collecting insurance for the destruction or damage to such property.

c. Failure to control or report dangerous fire. A person who knows that a fire is endangering life or a substantial amount of property of another and either fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give prompt fire alarm, commits a crime of the fourth degree if:

(1) He knows that he is under an official, contractual, or other legal duty to prevent or combat the fire; or

(2) The fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

d. Any person who, directly or indirectly, pays or accepts any form of consideration including, but not limited to, money or any other pecuniary benefit, for the purpose of starting a fire or causing an explosion in violation of this section commits a crime of the first degree.

e. Notwithstanding the provisions of any section of this Title to the contrary, if a person is convicted of aggravated arson pursuant to the provisions of subsection a. of this section and the structure which was the target of the offense was a health care facility or a physician's office, the sentence imposed shall include a term of imprisonment. The court may not suspend or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection.

f. Definitions. "Structure" is defined in section 2C:18-1. Property is that of another, for the purpose of this section, if any one other than the actor has a possessory or proprietary interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

As used in this section, "health care facility" means health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 499

AN ACT concerning the membership of the State Board of Medical Examiners and amending R.S.45:9-1.

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

1. 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 16 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 12 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 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.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 500

AN ACT concerning the composition of the Student Assistance Board and amending P.L.1977, c.330.

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

1. Section 1 of P.L.1977, c.330 (C.18A:71-15.1) is amended to read as follows:

C.18A:71-15.1 Student Assistance Board.

1. There is hereby created the Student Assistance Board which is responsible to the Board of Higher Education and which shall consist of the Chancellor of the Department of Higher Education or his designee and 12 other members to be appointed by the Governor as follows:

Four public members who shall be residents of the State;

One representative of Rutgers, The State University;

One representative of the State-supported county colleges;

One representative of the State Colleges;

One representative of the nontax supported institutions of higher education in the State;

One representative of the New Jersey Institute of Technology;

One member of the Educational Opportunity Fund Board;

Two New Jersey residents currently enrolled as students in an undergraduate degree program, one of whom shall attend a public institution of higher education of this State and one of whom shall attend a nontax supported institution of higher education in this State. These student members shall be selected from candidates recommended by the Student Advisory Committee. The term of office of the appointed student members shall not exceed two years.

The term of office of the other appointed members, except for the initial appointments, shall be for four years.

The terms of the initial appointed members shall be fixed by the Governor in such manner as two shall serve one-year terms, two shall serve two-year terms, three shall serve three-year terms and three shall serve four-year terms. Each member shall serve until his successor has been appointed and is qualified. Any vacancy in the board shall be filled by the Governor by the appointment of a person who shall hold office for the balance of the unexpired terms. The Student Assistance Board shall annually elect a chairperson and vice-chairperson from among its public

members. The members of the Student Assistance Board shall serve without compensation, but shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 501

AN ACT concerning ward commissioners and amending P.L.1981, c.496.

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

1. Section 4 of P.L.1981, c.496 (C.40:44-12) is amended to read as follows:

C.40:44-12 Compensation of ward commissioners, assistance.

4. Each ward commissioner shall be entitled to be reimbursed for necessary expenses incurred in the performance of his duties and to such compensation as the governing body may provide by ordinance or resolution.

The ward commissioners shall be entitled in the performance of their duties to the assistance of a surveyor or engineer, and, when they deem necessary, may employ a surveyor or engineer and such other assistants as shall be necessary to aid them in the discharge of their duties.

The governing body of the municipality shall provide, upon certification of the ward commissioners, for payment of the expenses of the ward commissioners, their compensation as determined by ordinance or resolution, and the expenses for the services of the surveyor, engineer or other assistants as the ward commissioners shall have incurred. No person employed under this section shall be compensated by receiving a percentage of the contract under which he renders services.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 502

AN ACT concerning the trusting of prepaid funeral monies, supplementing P.L.1957, c.182 (C.2A:102-13 et seq.) and amending P.L.1985, c.147.

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

C.2A:102-16.1 Irrevocable trusts, certain, conditions.

1. Notwithstanding the provisions of P.L.1957, c.182 (C.2A:102-13 et seq.) to the contrary, an agreement may provide that the trust shall be irrevocable during the lifetime of the beneficiary, if at the time of the signing of an agreement, the beneficiary or grantor of the trust is:

a. An aged, blind or disabled applicant for, or recipient of, benefits pursuant to the Supplemental Security Income Program under P.L.1973, c.256 (C.44:7-85 et seq.) or any Medicaid program under P.L.1968, c.413 (C.30:4D-1 et seq.) utilizing the eligibility criteria of the Supplemental Security Income Program in regard to burial spaces and funds set aside for burial expenses; or

b. An aged, blind or disabled person who reasonably anticipates applying for, or receiving, the benefits provided for in subsection a. of this section within six months.

An irrevocable trust established pursuant to this section shall not affect the selection of funeral goods or services or the selection of the funeral home. If the beneficiary or grantor of the trust enters into an agreement, reasonably anticipating that the beneficiary or grantor will become an applicant for, or recipient of, these programs within six months from the execution of the agreement, the agreement shall provide that, in the event the beneficiary or grantor of the trust does not become an applicant for, or recipient of, any of these programs within the six month period, the trust shall revert to a revocable trust.

As used in this section "agreement" means an agreement for the sale of personal property to be used in connection with a funeral or burial, or for the furnishing of personal services of a funeral director or undertaker, wherein the personal property is not to be delivered or the personal services are not to be rendered until the occurrence of the death of the person for whose funeral or burial the property or services are to be furnished.

2. Section 1 of P.L.1985, c.147 (C.3B:11-16) is amended to read as follows:

C.3B:11-16 Pooled trust accounts.

1. Prepaid funeral expense monies may be deposited into a pooled trust account in a federally insured State or federally chartered bank, savings bank or savings and loan association pursuant to a written trust agreement the beneficiaries of which shall be the consumers advancing said monies. Any such trust agreement shall assure that the following terms and conditions are clearly and conspicuously disclosed in writing to those consumer beneficiaries prior to the acceptance of any monies by the trustees:

a. The right to immediately withdraw on demand any monies plus accrued interest paid into the trust, except as provided in section 1 of P.L.1991, c.502 (C.2A:102-16.1).

b. The right to receive periodic statements not less than once per year reflecting the amount of principal and accrued interest, if any, in the trust.

c. The amount or rate of commissions to be taken.

d. The identity and location of the trustees.

e. The location of the trust agreement and the conditions under which it may be examined.

C.2A:102-16.2 Crimes concerning funeral trusts.

3. a. A person shall be guilty of a crime of the fourth degree if he knowingly or purposefully solicits or induces any person to execute an irrevocable trust pursuant to section 1 of P.L.1991, c.502 (C.2A:102-16.1) with an intent to collect or charge more than the fair market value for funeral goods or services.

b. A person shall be guilty of a crime of the fourth degree if the proceeds of the trust are expended on anything other than the fair market value of the funeral goods or services.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 503

AN ACT concerning fiduciary powers of qualified banks and amending and supplementing N.J.S.3B:14-23.

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

1. The Legislature hereby finds and declares that:

a. Qualified banks currently have the authority to collectively invest fiduciary assets in common trust funds established by such banks;

b. Qualified banks currently have the authority to provide investment management and other services required by common trust funds;

c. Investment companies which are regulated by the federal "Investment Company Act of 1940," 15 U.S.C.80a-1 et seq., and are thus prohibited from engaging in self-dealing pursuant to 15 U.S.C.80a-17, are collective investment funds similar to common trust funds but with several distinct advantages including regulation by the federal Securities and Exchange Commission, oversight by an independent board of directors, daily pricing of investments, the ability to effect daily deposits and withdrawals and the ability to obtain daily disclosure of investment performance and current price levels through newspaper listings or otherwise; and

d. It is advisable to clearly establish the authority of qualified banks to invest fiduciary assets in investment companies including those investment companies for which such banks provide investment advisory and other services, provided certain conditions are satisfied and certain safeguards are in place.

2. N.J.S.3B:14-23 is amended to read as follows:

Powers.

3B:14-23. Powers. In the absence of contrary or limiting provisions in the judgment or order appointing a fiduciary, in the will, deed or other instrument or in a subsequent court judgment or order, every fiduciary shall, in the exercise of good faith and reasonable discretion, have the power:

a. To accept additions to any estate or trust from sources other than the estate of the decedent, minor, mental incompetent or the settlor of a trust;

b. To acquire the remaining undivided interest in an estate or trust asset in which the fiduciary, in his fiduciary capacity, holds an undivided interest;

c. To invest and reinvest assets of the estate or trust under the provisions of the will, deed or other instrument or as otherwise provided by law and to exchange assets for investments and other property upon terms as may seem advisable to the fiduciary;

d. To effect and keep in force fire, rent, title, liability, casualty or other insurance to protect the property of the estate or trust and to protect the fiduciary;

e. With respect to any property or any interest therein owned by an estate or trust, including any real property belonging to the fiduciary's decedent at death, except where the property or any interest therein is specifically disposed of:

(1) To take possession of and manage the property and to collect the rents therefrom, and pay taxes, mortgage interest and other charges against the property;

(2) To sell the property at public or private sale, and on terms as in the opinion of the fiduciary shall be most advantageous to those interested therein;

(3) With respect to fiduciaries other than a trustee, to lease the property for a term not exceeding three years, and in the case of a trustee to lease the property for a term not exceeding ten years, even though the term extends beyond the duration of the trust, and in either case including the right to explore for and remove mineral or other natural resources, and in connection with mineral leases to enter into pooling and unitization agreements;

(4) To mortgage the property;

(5) To grant easements to adjoining owners and utilities;

(6) A fiduciary acting under a will may exercise any of the powers granted by this subparagraph e. notwithstanding the effects upon the will of the birth of a child after its execution;

f. To make repairs to the property of the estate or trust for the purpose of preserving the property or rendering it rentable or saleable;

g. To grant options for the sale of any property of the estate or trust for a period not exceeding six months;

h. With respect to any mortgage held by the estate or trust to continue it upon and after maturity, with or without renewal or extension, upon terms as may seem advisable to the fiduciary and to foreclose, as an incident to collection of any bond or note, any mortgage and purchase the mortgaged property or acquire the property by deed from the mortgagor in lieu of foreclosure;

i. In the case of the survivor or survivors of two or more fiduciaries to administer the estate or trust without the appointment of a successor to the fiduciary or fiduciaries who have ceased to act and to exercise or perform all of the powers given unless contrary to the express provision of the will, deed or other instrument;

j. As a new, alternate, successor, substitute or additional fiduciary or fiduciaries, to have or succeed to all of the powers, duties

and discretion of the original fiduciary or fiduciaries, with respect to the estate or trust, as were given to the original fiduciary or fiduciaries named in or appointed by a will, deed or other instrument, unless the exercise of the powers, duties or discretion of the original fiduciary or fiduciaries is expressly prohibited by the will, deed or other instrument to any successor or substitute fiduciary or fiduciaries;

k. Where there are three or more fiduciaries qualified to act, to take any action with respect to the estate or trust which a majority of the fiduciaries shall determine; a fiduciary who fails to act through absence or disability, or a dissenting fiduciary who joins in carrying out the decision of a majority of the fiduciaries if his dissent is expressed promptly in writing to his cofiduciaries, shall not be liable for the consequences of any majority decision, provided that liability for failure to join in administering the trust or to prevent a breach of trust may not thus be avoided;

l. To employ and compensate attorneys for services rendered to the estate or trust or to a fiduciary in the performance of his duties;

m. To compromise, contest or otherwise settle any claim in favor of the estate, trust or fiduciary or in favor of third persons and against the estate, trust or fiduciary, including transfer inheritance, estate, income and other taxes;

n. To vote in person or by proxy, discretionary or otherwise, shares of stock or other securities held by the estate or trust;

o. To pay calls, assessments and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures or other corporate securities in the hands of a fiduciary, whenever the payments may be legally enforceable against the fiduciary or any property of the estate or trust or the fiduciary deems payment expedient and for the best interests of the estate or trust;

p. To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers or liquidations, and to consent to corporate sales or leases and encumbrances, and, in the exercise of those powers, the fiduciary is authorized to deposit stocks, bonds or other securities with any custodian, agent, protective or other similar committee, or trustee under a voting trust agreement, under terms and conditions respecting the deposit thereof as the fiduciary may approve;

q. To execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, receipts and any other instrument necessary or appropriate for the administration of the estate or trust;

r. In the case of a trustee, to hold two or more trusts or parts of trusts created by the same instrument, as an undivided whole,

without separation as between the trusts or parts of the trusts, provided that separate trusts or parts of trusts shall have undivided interests and provided further that no holding shall defer the vesting of any estate in possession or otherwise;

s. To distribute in kind any property of the estate or trust as provided in article 1 of chapter 23 of this title;

t. To join with the surviving spouse, the executor of his or her will or the administrator of his or her estate in the execution and filing of a joint income tax return for any period prior to the death of a decedent for which he has not filed a return or a gift tax return on gifts made by the decedent's surviving spouse, and to consent to treat the gifts as being made one-half by the decedent, for any period prior to a decedent's death, and to pay taxes thereon as are chargeable to the decedent;

u. To acquire or dispose of an asset, including real or personal property in this or another State, for cash or on credit, at public or private sale, and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

v. To continue any business constituting the whole or any part of the estate for so long a period of time as the fiduciary may deem advisable and advantageous for the estate and persons interested therein;

w. In the case of a qualified bank as defined in section 1 of P.L.1948, c.67 (C.17:9A-1), to purchase, sell and maintain for any fiduciary account, securities issued by an investment company which is operated and maintained in accordance with the "Investment Company Act of 1940," 15 U.S.C.80a-1 et seq., and for which the qualified bank is providing services as an investment advisor, investment manager, custodian or otherwise, provided that:

(1) the investment is otherwise in accordance with applicable fiduciary standards;

(2) unless the investment of trust assets in an investment company to which the qualified bank provides services as an investment manager, custodian or otherwise is provided for by the instrument creating the fiduciary account:

(a) all current income beneficiaries are provided with 30 days written notice of the qualified bank's intent to so invest the assets prior to the initial investment; and

(b) the qualified bank does not receive written objection thereto from any such beneficiary within the 30 day period; and

(3) unless otherwise specifically permitted by the trust instrument creating the fiduciary account:

(a) the investment advisory fees, commissions or similar fees to which the qualified bank is entitled as fiduciary shall be reduced by the amount of any investment advisory fees, commissions or similar fees paid to the qualified bank by the investment company; or

(b) the investment advisory fees, commissions or similar fees paid to the qualified bank by the investment company are received in lieu of any investment advisory fees, commissions or similar fees that the qualified bank would otherwise be entitled to receive for the investment management of the fiduciary account.

Such investment shall not be deemed self-dealing or a fiduciary conflict; nor shall the fact that other beneficiaries of fiduciary accounts of the qualified bank have similar investments be deemed to be an improper commingling of assets by the qualified bank.

For purposes of this subsection, "fiduciary account" shall include a trust, estate, agency or other account in which funds, property, or both, are held by a qualified bank pursuant to section 28 of P.L.1948, c.67 (C.17:9A-28), or an account for which a qualified bank acts as investment advisor or manager; and

x. The powers set forth in this section are in addition to any other powers granted by law, and by a will, deed or other instrument.

3. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 504

AN ACT concerning the maintenance of certain voter registration information and supplementing chapter 31 of Title 19 of the Revised Statutes.

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

C.19:31-3.1 Voter registration information, certain counties.

1. a. In any county of the second class with a population of greater than 590,000 according to the 1980 federal decennial census which maintains voter registration information on computer or magnetic tape or electronic data processing equipment of any kind, the commissioner of registration shall maintain on such tape

or equipment for a period of ten years the following information as it applies to each voter who registered prior to the enactment of this act and to each voter who registers subsequently:

(1) the date of registration of the registrant;

(2) the date of birth of the registrant;

(3) the party affiliation of the registrant, if any; and

(4) when a registrant has voted or votes in a primary or general election. The information on each registrant shall be updated after every primary and general election and shall be readily accessible from the tape or equipment on which it is maintained.

b. If the commissioner of registration has maintained information in any form regarding a registrant's party affiliation or when that registrant has voted in a primary or general election which dates to the year 1987, the commissioner shall be responsible for maintaining that information for a period of ten years as part of the current voter information file of the registrant if it is already on computer or magnetic tape or electronic data processing equipment of any kind and for converting such information to such tape or equipment if the information exists but is not on such tape or equipment, so that it becomes part of the current voter information file of the registrant.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 505

AN ACT concerning the authority of the Joint Legislative Committee on Ethical Standards and amending P.L.1971, c.182.

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

1. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to read as follows:

C.52:13D-22 Joint Legislative Committee on Ethical Standards; membership; powers, duties; penalties.

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P.L.1967, chapter 229, as con-

tinued and established pursuant to P.L.1971, c.182, is continued and established in the Legislative Branch of State Government with the addition of the public members as set forth in this section.

(b) The joint committee shall be composed of 12 members as follows: four members of the Senate appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and four public members, one appointed by the President of the Senate, one appointed by the Speaker of the General Assembly, one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the General Assembly. No public member shall be a lobbyist or legislative agent as defined by the "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183 (C.52:13C-18 et seq.), a full-time State employee or an officer or director of any entity which is required to file a statement with the Election Law Enforcement Commission, and no former lobbyist or legislative agent shall be eligible to serve as a public member for one year following the cessation of all activity by that person as a legislative agent or lobbyist. The legislative members shall serve until the end of the two-year legislative term during which the members are appointed. The public members shall serve for terms of two years and until the appointment and qualification of their successors. The terms of the public members shall run from the second Tuesday in January of an even-numbered year to the second Tuesday in January of the next even-numbered year, regardless of the original date of appointment. Notwithstanding the terms of the public members as established in this section, the public members first appointed shall serve from their initial appointments, all of which shall be made not later than the 60th day following the effective date of this act, until the second Tuesday in January of the next even-numbered year. Vacancies in the membership of the joint committee shall be filled in the same manner as the original appointments, but for the unexpired term only. Public members of the joint committee shall serve without compensation, but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(c) The joint committee shall organize as soon as may be practicable after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary, who need not be a member of the joint committee.

(d) The Legislative Counsel in the Office of Legislative Services shall act as legal adviser to the joint committee. He shall, upon request, assist and advise the joint committee in the rendering of advisory opinions by the joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ other professional, technical, clerical or other assistants, excepting legal counsel, and incur expenses as may be necessary to the performance of its duties.

(f) The joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The joint committee is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter.

(h) The joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either or both Houses of the Legislature governing the conduct of the members or employees thereof as those rules may confer upon the joint committee. A complaint regarding a violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the joint committee for disposition in accordance with subsection 12(d) of this act.

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the joint committee of violating any provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than $500.00 nor more than $1,500.00, which penalty may be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and may be reprimanded and ordered to pay restitution where appropriate and may be suspended from his office or employment by order of the joint

committee for a period not in excess of 1 year. If the joint committee finds that the conduct of such officer or employee constitutes a willful and continuous disregard of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter, it may order such person removed from his office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding 5 years from the date on which he was found guilty by the joint committee.

(j) A member of the Legislature who shall be found guilty by the joint committee of violating the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than $500.00 nor more than $1,500.00, which penalty may be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and shall be subject to such further action as may be determined by the House of which he is a member. In such cases the joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the joint committee deems appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

2. This act shall take effect immediately, but any increased penalties shall apply only to violations occurring on or after the effective date.

Approved January 18, 1992.

CHAPTER 506

AN ACT authorizing the State Treasurer to undertake certain capital projects and making appropriations therefor.

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

1. Notwithstanding any law to the contrary, the State Treasurer is authorized to enter into an agreement or agreements to make grants or loans from the General Fund to develop, acquire, construct, improve, operate and maintain or otherwise effectuate for use by the city of Trenton or other governmental entity, either directly or indirectly through lessees, licensees or agents, improvements to be located at the Roebling and American Steel and Wire industrial sites in the city of Trenton, which may include but not be limited to a theater and museum and learning center; provided however, that the payment by the State of any monies under any such agreement shall be subject to and dependent upon appropriations made from time to time for such purposes. Such agreement or agreements shall be on terms and conditions that ensure the State Treasurer's ongoing review of the development of the facilities.

2. The State Treasurer is authorized to enter into an agreement or agreements to make grants or loans from the General Fund to develop, acquire, construct, improve, operate and maintain or otherwise effectuate for use by the city of Trenton or other governmental entity, either directly or indirectly through lessees, licensees or agents, improvements to the area surrounding the Delaware and Raritan Canal and improvements and housing assistance to the neighborhoods adjacent to the canal bounded by East State Street, Route 1, Old Rose Street, Brunswick Avenue, Pennington Avenue, Calhoun Street and West State Street in the city of Trenton; provided however, that such agreement shall be subject to and dependent upon appropriations being made from time to time for such purposes. Such agreement or agreements shall be on terms and conditions that ensure the State Treasurer's ongoing review of the development of the facilities.

3. a. There is appropriated to the Department of Treasury from the General Fund the sum of $3,900,000 for grants or loans for capital construction and acquisition at the Roebling Complex in the city of Trenton.

b. There is appropriated to the Department of Treasury from the General Fund the sum of $3,031,000 for grants or loans for improvement to areas adjacent to the Delaware and Raritan Canal Park in the city of Trenton.

c. There is appropriated to the Department of Treasury from the General Fund the sum of $6,931,000 for renovation of the Richard J. Hughes Justice Complex in the city of Trenton.

4. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 507

AN ACT concerning certain State contracts and supplementing Title 52 of the Revised Statutes.

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

C.52:32-40 Definitions.

1. As used in this act:

"Prime contractor" means any person who has a construction contract with a State agency and who subcontracts all or a part of that contract.

"State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency which is authorized by law to award construction contracts. A county or municipality shall not be deemed an agency or instrumentality of the State.

"Subcontractor" means any person who enters into a contract with a prime contractor to perform a specific part of the work for which the prime contractor is responsible under a construction contract with a State agency.

"Supplier" means any person who enters into a contract with a prime contractor to provide materials to that prime contractor in connection with a State construction contract.

C.52:32-41 Construction contracts, timely payment to subs and suppliers, procedure.

2. a. Prior to the issuance of a progress payment by a State agency to a prime contractor, the prime contractor shall certify to the State agency that a subcontractor or supplier has been paid any amount due from any previous progress payment and shall be paid any amount due from the current progress payment, or that there exists a valid basis under the terms of the subcontractor's or supplier's contract to withhold payment from the subcontractor or supplier and therefore payment is withheld.

b. If the prime contractor withholds payment from a subcontractor or supplier, the prime contractor shall provide to the subcontractor or supplier written notice of a withholding of payment. The notice shall detail the reason for withholding payment

and state the amount of payment withheld. A copy of the notice shall be provided to the bonding company providing the performance bond for the general contractor and to the State agency.

c. In addition to any amount due, a subcontractor or supplier shall also receive from a prime contractor interest on the amount due at a rate equal to the prime rate plus 1% if a subcontractor or supplier is not paid within 10 calendar days after receipt by the prime contractor of payment by a State agency for completed work which is the subject of a subcontract or a material supply agreement and if no valid basis exists for withholding payment. This interest shall begin to accrue on the 10th calendar day after receipt of payment by the prime contractor. In addition, a subcontractor or supplier shall receive any court costs incurred by the subcontractor or supplier to collect payments withheld without a valid basis by the prime contractor.

d. If court action is taken by a subcontractor or supplier to collect payments withheld by a prime contractor and it is determined that a valid basis existed for the withholding of those payments, the subcontractor or supplier shall be liable for any court costs incurred by the prime contractor in connection with the action.

3. This act shall take effect immediately and shall apply to any State construction contract executed on or after the effective date of this act.

Approved January 18, 1992.

CHAPTER 508

AN ACT concerning tax exemption of public housing project property in certain cases and amending R.S.55:14A-20.

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

1. R.S.55:14A-20 is amended to read as follows:

Property exempt from taxes.

55:14A-20. Property exempt from taxes. All housing projects of a housing authority, including all property of the public body or bodies or housing authority or authorities comprising such hous-

ing projects, are hereby declared to be public property devoted to an essential public and governmental purpose. All such public property devoted to such a public purpose shall be exempt from all taxes and special assessments of the State or any political subdivision thereof as long as such public property remains under exclusive control and jurisdiction of a housing authority or public body which owns or holds such property, and for a period not exceeding 15 years after the transfer of title thereto pursuant to a program of home ownership opportunities, as authorized under R.S.55:14A-19, if (1) such continued exemption is determined by the local housing authority to be necessary to the financial feasibility of transition from public to private ownership, (2) the resident owners of the resident management association, condominium association or cooperative corporation shall continue to receive, to the extent necessary, financial assistance from the federal government during such continued exemption period, and (3) the governing body of the municipality in which the property is located approves the terms of such continued exemption, including any agreement for payments in lieu of taxes as authorized in this section; provided, however, that in lieu of such taxes, the public body or resident management corporation, condominium association or cooperative corporation which owns or holds such property may agree to make payments to a political subdivision for the services, improvements or facilities furnished by it for the benefit of a housing project, but in no event shall such payments: either (1) exceed the amount last levied as the annual tax of such political subdivision upon the property included in said project prior to the time of its acquisition by the aforesaid public body or (2) be less than the amount last paid in lieu of taxes to the political subdivision, attributed to, or prorated for, the public housing project for which title is being transferred to the residents thereof or to a resident management association or cooperative corporation, by the public body by which title was transferred to private ownership pursuant to a program of home ownership opportunities as authorized in R.S.55:14A-19.

2. This act shall take effect immediately.

Approved January 18, 1992.

CHAPTER 509

AN ACT concerning the conversions of residential rental premises in certain cases, amending P.L.1974, c.49, P.L.1977, c.419, P.L.1981, c.226 and P.L.1986, c.138, 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:18-61.40 Short title.

1. This act shall be known and may be cited as the "Tenant Protection Act of 1992."

C.2A:18-61.41 Findings, declarations.

2. The Legislature finds that the provision and maintenance of an adequate supply of housing affordable to persons of low and moderate income in this State has been and is becoming increasingly difficult as a result of economic and market forces which require special public actions or subsidies to counteract. One particularly acute result of this has been the continual increase in the number of displaced or homeless persons who, lacking permanent shelter, require special assistance from public services in this State and in surrounding states in order to remain alive. The Legislature has in the past taken various actions, and is currently considering several measures, to increase the supply of affordable housing in the State. At the same time, it is necessary to protect residential tenants, particularly those of advanced age or disability, or lower economic status, from the effects of eviction from affordable housing in recognition of the high costs, both financial and social, to the public of displacement from affordable housing and of homelessness. The Legislature has in the past through various enactments recognized that the eviction of residential tenants pursuant to the process of conversion of residential premises to condominiums or cooperatives exacerbates homelessness and makes more difficult the maintenance of an adequate supply of low and moderate income housing. The Legislature, therefore, declares that it is in the public interest to establish a tenant protection program specifically designed to provide protection to residential tenants, particularly the aged and disabled and those of low and moderate income, from eviction resulting from condominium or cooperative conversion.

C.2A:18-61.42 Definitions.

3. As used in this act:

"Administrative agency" means the municipal board, officer or agency designated, or the county agency contracted with, pursuant to section 6 of this act.

"Annual household income" means the total income from all sources during the last full calendar year, or the annual average of that total income during the last two calendar years, whichever is less, of a tenant and all members of the household who are residing in the tenant's dwelling unit when the tenant applies for protected tenancy, whether or not such income is subject to taxation by any taxing authority.

"Commissioner" means the Commissioner of Community Affairs.

"Conversion" means conversion as defined in section 3 of "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-23).

"Conversion recording" means the recording with the appropriate county officer of a master deed for a condominium or a deed to a cooperative corporation for a planned residential development or separable fee simple ownership of the dwelling units.

"County rental housing shortage" means a certification issued by the Commissioner of Community Affairs that there has occurred a significant decline in the availability of rental dwelling units in the county due to conversions; provided, however, that the commissioner shall not issue any such certification unless during the immediately preceding 10 year period:

a. The aggregate number of rental units subject to registrations of conversion during any three consecutive years in the county exceeds 10,000; and

b. The aggregate number of rental units subject to registrations of conversion in at least one of those three years exceeds 5,000.

"Department" means the Department of Community Affairs.

"Index" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for either the New York, NY-Northeastern New Jersey or the Philadelphia, PA-New Jersey region, according as either shall have been determined by the commissioner to be applicable in the locality of a property undergoing conversion.

"Protected tenancy period" means, except as otherwise provided in section 11 of this act, all that time following the conversion recording for a building or structure during which a qualified tenant in that

building or structure continues to be a qualified tenant and continues to occupy a dwelling unit therein as his principal residence.

"Qualified county" means:

a. Any county with a population in excess of 500,000 and a population density in excess of 8,500 per square mile, according to the most recent federal decennial census; or

b. Any county wherein there exists a county rental housing shortage.

"Qualified tenant" means a tenant who is a resident in a qualified county and:

(1) Applied for protected tenancy status on or before the date of registration of conversion by the department, or within one year of the effective date of this act, whichever is later;

(2) Has occupied the premises as his principal residence for at least 12 consecutive months next preceding the date of application; and

(3) Has an annual household income that does not at the time of application exceed the maximum qualifying income as determined pursuant to section 4 of this act, except that this income limitation shall not apply to any tenant who is age 75 or more years or is disabled within the meaning of section 3 of P.L.1981, c.226 (C.2A:18-61.24).

"Registration of conversion" means an approval of an application for registration by the department in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

"Tenant in need of comparable housing" means a tenant who is not a qualified tenant under this act and is not eligible for protected tenancy under the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.).

C.2A:18-61.43 Maximum qualifying income, adjustment.

4. As of the effective date of this act, maximum qualifying income for the purpose of determining qualified tenant status as defined in section 3 of this act shall be in the case of a household comprising one person, $31,400; two persons, $38,500; three persons, $44,800; four persons, $50,300; five persons, $55,000; six persons, $58,900; seven persons, $62,000; eight or more persons, $64,300. In the case of any application for protected tenancy filed more than one year from the effective date of this act, and upon any occasion when termination of a previously granted protected tenancy is sought pursuant to section 11 of this act upon the grounds set forth in paragraph (2) of subsection a. of that section, these figures shall be adjusted by the percentage change, if any, in the applicable index that has occurred since the effective date of this act.

C.2A:18-61.44 Protected tenancy, qualification, duration.

5. a. Each qualified tenant shall be granted a protected tenancy status with respect to his dwelling unit upon conversion of the building or structure in which the unit is located. The protected tenancy status shall be granted upon proper application and qualification pursuant to the provisions of this act.

b. Each qualified tenant in need of comparable housing shall be entitled to remain in his dwelling unit upon conversion of the building or structure in which the unit is located until the owner of the building or structure has complied with the provisions of P.L.1975, c.311 (C.2A:18-61.7 et al.).

C.2A:18-61.45 Designation of administrative agency.

6. Each municipal governing body in a qualified county shall designate a municipal board, agency or officer to act as its administrative agency for the purposes of this act or may enter into a contractual agreement with an appropriate county to act as its administrative agency for purposes of this act. In the absence of such authorization or contractual agreement, this act shall be administered by the board, agency or officer administering the provisions of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) in the municipality.

C.2A:18-61.46 Notice, etc. required of owner seeking to convert, notice to tenants.

7. The owner of any building or structure in a qualified county who seeks to convert any premises shall notify the administrative agency of that intention prior to filing the application for registration of conversion with the department. The owner shall supply the administrative agency with a list of every tenant residing in the premises, with stamped envelopes addressed to each tenant and with sufficient copies of the notice to tenants and application form for protected tenancy status. Within 10 days thereafter, the administrative agency shall notify each residential tenant in writing of the owner's intention and of the applicability of the provisions of this act and shall provide him with a written application form. The agency's notice shall be substantially in the following form:

"NOTICE

THE OWNER OF YOUR APARTMENT HAS NOTIFIED ..... (insert name of municipality) OF HIS INTENTION TO CONVERT TO A CONDOMINIUM OR COOPERATIVE.

UNDER STATE LAW YOU MAY BE ENTITLED TO A PROTECTED TENANCY.

PROTECTED TENANCY MEANS THAT YOU CANNOT BE EVICTED BECAUSE OF THE CONVERSION.

YOU MAY BE QUALIFIED:
(1) IF YOU HAVE LIVED IN YOUR APARTMENT FOR A YEAR AND
(2) IF YOUR HOUSEHOLD INCOME IS LESS THAN ..... (insert current maximum qualifying income established under section 3 of this act), OR
YOU ARE DISABLED OR ARE AT LEAST 75 YEARS OLD.

IF YOU THINK YOU MAY QUALIFY, SEND IN THE APPLICATION FORM BY ..... (insert date 60 days after municipality's mailing) TO THE ..... (insert name and address of administrative agency)

EVEN IF YOU DO NOT QUALIFY, YOU HAVE THE RIGHT TO REMAIN IN YOUR APARTMENT UNTIL YOUR LANDLORD HAS COMPLIED WITH LAWS REGARDING THE OFFER OF COMPARABLE HOUSING.

FOR FURTHER INFORMATION CALL..... (insert phone number of administrative agency)

OR ....." (insert phone number of Department of Community Affairs)

The department shall not accept any application for registration of conversion for any building or structure unless included in the application is proof that the administrative agency notified the tenants prior to the application for registration. The proof shall be by affidavit or in such other form as the department shall require.

In any municipality where the administrative agency is the same as the agency administering the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), the notices required under that act and this act may be combined in a single mailing.

C.2A:18-61.47 Determining tenants' qualifications.

8. Within 30 days after receipt of an application for the protected tenancy status authorized under the provisions of this act, the administrative agency shall make a determination of qualification. It shall send written notice of qualification to each tenant who is a resident of the qualified county and:

a. applied on or before the date of registration of conversion by the department, or within one year from the effective date of this act, whichever is later; and,

b. has an annual household income that does not exceed the maximum amount permitted for qualification, or is exempt from that income limitation by reason of age or disability; and,

c. has occupied the premises as his principal residence for at least 12 consecutive months next preceding the date of application.

The administrative agency shall likewise send a notice of denial, with reasons therefor, to any tenant whom it determines not to be qualified. That notice shall inform the tenant of his right to remain in his dwelling unit until the owner shall have complied with the requirements of P.L.1975, c.311 (C.2A:18-61.7 et al.) and shall include an explanation of the meaning of "comparable housing" as used in that act. The owner shall be notified of those tenants who are determined to be qualified and unqualified.

The administrative agency may require that the application include such documents and information as may be necessary to establish that the tenant is qualified for a protected tenancy status under the provisions of this act and shall require that such documentation and information be submitted under oath. The commissioner may by regulation adopt uniform forms to used in applying for protected tenancy status, for notifying an applicant of qualification or denial thereof, and conveying to a denied applicant the information concerning his rights to continued tenancy and offer of comparable housing; he may also adopt such other regulations for the procedure of determining qualification as he deems necessary or expedient to the proper effectuation of the provisions and purposes of this act.

C.2A:18-61.48 Requisites for approval of registration of conversion.

9. No registration of conversion for a building or structure located in a qualified county shall be approved until the department receives proof that the provisions of section 8 of this act have been complied with, and that notification as required in that section has been made to all tenants who filed application for protected tenancy status on or before the application deadline prescribed in the

notice given pursuant to section 7 of this act. The proof shall be by affidavit or in such form as the department may require.

C.2A:18-61.49 Applicability of protected tenancy.

10. The protected tenancy status authorized under the provisions of this act shall not be applicable to any qualified tenant until such time as the owner has filed his conversion recording. The protected tenancy status shall automatically apply as soon as a tenant receives notice of qualification and the landlord files his conversion recording. The conversion recording shall not be filed until after the registration of conversion.

C.2A:18-61.50 Termination of protected tenancy.

11. a. The administrative agency shall terminate the protected tenancy status authorized under the provisions of this act immediately upon finding that:

(1) the dwelling unit is no longer the principal residence of the tenant, or

(2) the tenant's annual household income exceeds the maximum amount permitted for qualification.

b. Upon presentation to the administrative agency of credible evidence that a tenant is no longer qualified for protected tenancy status under this act, the administrative agency shall proceed, in accordance with such regulations and procedures as the department shall adopt and prescribe for use in such cases, to investigate and make a determination as to the continuance of that status.

c. Upon the termination of the protected tenancy status by the administrative agency, the tenant may be removed from the dwelling unit pursuant to P.L.1974, c.49 (C.2A:18-61.1 et al.), except that all notice and other times set forth therein shall be calculated and extend from the date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the tenant during the protected tenancy period, whichever shall be later.

d. Any protection afforded to a person under the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) shall remain in full force and effect. If the administrative agency determines that a tenant is no longer qualified for protected tenancy under that act, the administrative agency shall proceed to determine the eligibility of that tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), or, in any case in which the administrative agency is not the same as the agency administering the "Tenant Protection Act of 1992" in the

municipality, shall refer the case to the appropriate administrative agency for such determination. If the tenant is found by such determination to be eligible, his protected tenancy status shall be continued. The protected tenancy status of the tenant shall remain in full force pending such determination.

C.2A:18-61.51 Tenancy protection terminated by tenant purchase.

12. In the event that a qualified tenant purchases the dwelling unit he occupies, the protected tenancy status afforded under the provisions of this act shall terminate immediately upon purchase.

C.2A:18-61.52 Costs of conversion no basis for rent increases.

13. a. In the case of a municipality subject to the provisions of this act that does not have a rent control ordinance in effect, no evidence of increased costs that are solely the result of the conversion, including but not limited to any increase in financing or carrying costs, and do not add services or amenities not previously provided shall be used as a basis to establish the reasonableness of a rent increase under subsection f. of section 2 of P.L.1974, c.49 (C.2A:18-61.1).

b. In the case of a municipality subject to the provisions of this act that has a rent control ordinance in effect, a rent increase for a qualified tenant with a protected tenancy status, or for any tenant to whom notice of termination pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2) has been given, shall not exceed the increase authorized by the ordinance for rent-controlled units. Increased costs that are solely the result of a conversion, including but not limited to any increase in financing or carrying costs, and do not add services or amenities not previously provided shall not be used as a basis for an increase in a fair-return or hardship hearing before a municipal rent board or on any appeal from such determination.

C.2A:18-61.53 Public offering statements, requisites.

14. In the case of a building or structure located in a qualified county, the public offering statement for a conversion as required by "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), shall clearly inform the prospective purchaser of the provisions of this act regarding the protection of qualified tenants and tenants in need of comparable housing. Any contract or agreement for sale of a converted unit shall contain a clause in 10-point bold type or larger that the contract is subject to the terms of this act concerning

such tenant protection and an acknowledgement that the purchaser has been informed of these terms.

C.2A:18-61.54 Municipal fees.

15. A municipality located in a qualified county is authorized to charge an owner a fee which may vary according to the size of the building to cover the cost of providing the services required by this act.

C.2A:18-61.55 Tenant waivers, unenforceable.

16. Any agreement whereby the tenant waives any rights under this act shall be deemed to be against public policy and unenforceable.

C.2A:18-61.56 Actions against qualified tenants, limitations.

17. For one year from the effective date of this act, no action for removal of a qualified tenant shall be instituted, no judgment shall be entered against a qualified tenant based upon a previously instituted action, and no qualified tenant shall be removed from his dwelling unit by a landlord, on the basis of the conversion of the premises. The owner of any residential premises located in a qualified county who, prior to that date, has registered those residential premises for conversion or applied for such registration shall comply with the provisions of this act, and the tenants residing in those premises shall be entitled to the protections extended under this act as if the registration or application for registration had not so occurred prior to that date. However, the provisions of this section shall not apply to any residential unit for which a conversion was registered prior to March 4, 1991 if the unit was sold to a bona fide individual purchaser prior to that date and that purchaser intends to personally occupy the unit as his principal residence.

C.2A:18-61.57 Removal for good cause.

18. Nothing in this act shall be deemed to prevent a court from removing a tenant, qualified tenant or tenant in need of comparable housing from a dwelling unit located in a qualified county for good cause shown not to be related to conversion of the building or structure to a condominium or cooperative.

19. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read as follows:

C.2A:18-61.1 Grounds for removal of tenants.

2. No lessee or tenant or the assigns, under-tenants or legal representatives of such lessee or tenant may be removed by the Superior Court from any house, building, mobile home or land in a

mobile home park or tenement leased for residential purposes, other than (1) owner-occupied premises with not more than two rental units or a hotel, motel or other guest house or part thereof rented to a transient guest or seasonal tenant; (2) a dwelling unit which is held in trust on behalf of a member of the immediate family of the person or persons establishing the trust, provided that the member of the immediate family on whose behalf the trust is established permanently occupies the unit; and (3) a dwelling unit which is permanently occupied by a member of the immediate family of the owner of that unit, provided, however, that exception (2) or (3) shall apply only in cases in which the member of the immediate family has a developmental disability, except upon establishment of one of the following grounds as good cause:

a. The person fails to pay rent due and owing under the lease whether the same be oral or written.

b. The person has continued to be, after written notice to cease, so disorderly as to destroy the peace and quiet of the occupants or other tenants living in said house or neighborhood.

c. The person has willfully or by reason of gross negligence caused or allowed destruction, damage or injury to the premises.

d. The person has continued, after written notice to cease, to substantially violate or breach any of the landlord's rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term.

e. The person has continued, after written notice to cease, to substantially violate or breach any of the covenants or agreements contained in the lease for the premises where a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement is reasonable and was contained in the lease at the beginning of the lease term.

f. The person has failed to pay rent after a valid notice to quit and notice of increase of said rent, provided the increase in rent is not unconscionable and complies with any and all other laws or municipal ordinances governing rent increases.

g. The landlord or owner (1) seeks to permanently board up or demolish the premises because he has been cited by local or State housing inspectors for substantial violations affecting the health and safety of tenants and it is economically unfeasible for the owner to eliminate the violations; (2) seeks to comply with local or State housing inspectors who have cited him for substantial violations affecting the health and safety of tenants and it is

unfeasible to so comply without removing the tenant; simultaneously with service of notice of eviction pursuant to this clause, the landlord shall notify the Department of Community Affairs of the intention to institute proceedings and shall provide the department with such other information as it may require pursuant to rules and regulations. The department shall inform all parties and the court of its view with respect to the feasibility of compliance without removal of the tenant and may in its discretion appear and present evidence; (3) seeks to correct an illegal occupancy because he has been cited by local or State housing inspectors and it is unfeasible to correct such illegal occupancy without removing the tenant; or (4) is a governmental agency which seeks to permanently retire the premises from the rental market pursuant to a redevelopment or land clearance plan in a blighted area. In those cases where the tenant is being removed for any reason specified in this subsection, no warrant for possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

h. The owner seeks to retire permanently the residential building or the mobile home park from residential use or use as a mobile home park, provided this subsection shall not apply to circumstances covered under subsection g. of this section.

i. The landlord or owner proposes, at the termination of a lease, reasonable changes of substance in the terms and conditions of the lease, including specifically any change in the term thereof, which the tenant, after written notice, refuses to accept; provided that in cases where a tenant has received a notice of termination pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a protected tenancy status pursuant to section 9 of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or pursuant to the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall have the burden of proving that any change in the terms and conditions of the lease, rental or regulations both is reasonable and does not substantially reduce the rights and privileges to which the tenant was entitled prior to the conversion.

j. The person, after written notice to cease, has habitually and without legal justification failed to pay rent which is due and owing.

k. The landlord or owner of the building or mobile home park is converting from the rental market to a condominium, cooperative or fee simple ownership of two or more dwelling units or park sites, except as hereinafter provided in subsection l. of this

section. Where the tenant is being removed pursuant to this subsection, no warrant for possession shall be issued until this act has been complied with. No action for possession shall be brought pursuant to this subsection against a senior citizen tenant or disabled tenant with protected tenancy status pursuant to the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a qualified tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated the protected tenancy status or the protected tenancy period has not expired.

l. (1)The owner of a building or mobile home park, which is constructed as or being converted to a condominium, cooperative or fee simple ownership, seeks to evict a tenant or sublessee whose initial tenancy began after the master deed, agreement establishing the cooperative or subdivision plat was recorded, because the owner has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing. However, no action shall be brought against a tenant under paragraph (1) of this subsection unless the tenant was given a statement in accordance with section 6 of P.L.1975, c.311 (C.2A:18-61.9);

(2) The owner of three or less condominium or cooperative units seeks to evict a tenant whose initial tenancy began by rental from an owner of three or less units after the master deed or agreement establishing the cooperative was recorded, because the owner seeks to personally occupy the unit, or has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing;

(3) The owner of a building of three residential units or less seeks to personally occupy a unit, or has contracted to sell the residential unit to a buyer who wishes to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing.

m. The landlord or owner conditioned the tenancy upon and in consideration for the tenant's employment by the landlord or owner as superintendent, janitor or in some other capacity and such employment is being terminated.

n. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of AN ACT which if committed by an adult would constitute an offense under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance

analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing, a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said act.

o. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats against the landlord, a member of the landlord's family or an employee of the landlord; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently.

p. The person has been found, by a preponderance of the evidence, liable in a civil action for removal commenced under this act for an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic threats against the landlord, a member of the landlord's family or an employee of the landlord, or under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who committed such an offense, or otherwise

permits such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said "Comprehensive Drug Reform Act of 1987."

For purposes of this section, (1) "developmental disability" means any disability which is defined as such pursuant to section 3 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family" means a person's spouse, parent, child or sibling, or a spouse, parent, child or sibling of any of them; and (3) "permanently" occupies or occupied means that the occupant maintains no other domicile at which the occupant votes, pays rent or property taxes or at which rent or property taxes are paid on the occupant's behalf.

20. Section 6 of P.L.1986, c.138 (C.2A:18-61.1e) is amended to read as follows:

C.2A:18-61.1e Rights of former tenants.

6. If a dwelling unit becomes vacated after notice has been given that the owner seeks to permanently board up or demolish the premises or seeks to retire permanently the premises from residential use pursuant to paragraph (1) of subsection g. or subsection h. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) and if at any time thereafter an owner instead seeks to return the premises to residential use, the owner shall provide the former tenant:

a. Written notice 90 days in advance of any return to residential use or any agreement for possession of the unit by any other party, which notice discloses the owner's intention to return the unit to residential use and all appropriate specifics;

b. The right to return to possession of the vacated unit or, if return is not available, the right to possession of affordable housing relocation in accord with the standards and criteria set forth for comparable housing as defined by section 4 of P.L.1975, c.311 (C.2A:18-61.7); and

c. In the case of a conversion, the right to a protected tenancy pursuant to the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et seq.), or pursuant to the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), if the former tenant would have at the time of the conver-

sion been eligible for a protected tenancy under either of those acts, had the former tenant not vacated the premises.

The 90-day notice shall disclose the tenant's rights pursuant to this section and the method for the tenant's response to exercise these rights. A duplicate of the notice shall be transmitted within the first five days of the 90-day period to the rent board in the municipality or the municipal clerk, if there is no board. Notwithstanding the provisions of subsection c. of section 3 of P.L.1975, c.311 (C.2A:18-61.6), damages awarded shall not be trebled where possession has been returned in accord with this section; nor shall any damages be awarded as provided for in subsection e. of section 3 of P.L.1975, c.311 (C.2A:18-61.6). An owner who fails to provide a former tenant a notice of intention to return to residential use pursuant to this section is liable to a civil penalty of not less than $2,500.00 or more than $10,000.00 for each offense, and shall also be liable in treble damages, plus attorney fees and costs of suit, for any loss or expenses incurred by a former tenant as a result of that failure. The penalty prescribed in this section shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court, Law Division, Special Civil Part, in the county in which the rental premises are located shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, shall issue upon the complaint of the Commissioner of the Department of Community Affairs, the Attorney General, or any other person. No owner shall be liable for a penalty pursuant to this section if the unit is returned to residential use more than five years after the date the premises are vacated or if the owner made every reasonable effort to locate the former tenant and provide the notice, including, but not limited to, the employment of a qualified professional locator service, where no return receipt is obtained from the former tenant.

In any action under this section the court shall, in addition to damages, award any other appropriate legal or equitable relief.

21. Section 7 of P.L.1977, c.419 (C.45:22A-27) is amended to read as follows:

C.45:22A-27 Application for registration of development.

7. a. The application for registration of the development shall be filed as prescribed by the agency's rules and shall contain the following documents and information:

(1) An irrevocable appointment of the agency to receive service of any lawful process in any noncriminal proceeding arising under this act against the developer or his agents;

(2) The states or other jurisdictions, including the federal government, in which an application for registration or similar documents have been filed, and any adverse order, judgment or decree entered in connection with the development by the regulatory authorities in each jurisdiction or by any court;

(3) The name, address, and principal occupation for the past five years of every officer of the applicant or person occupying a similar status, or performing similar management functions; the extent and nature of his interest in the applicant or the development as of a specified date within 30 days of the filing of the application;

(4) Copies of its articles of incorporation, with all amendments thereto, if the developer is a corporation; copies of all instruments by which the trust is created or declared, if the developer is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and if the purported holder of legal title is a person other than the developer, copies of the above documents from such person;

(5) A legal description of the lands offered for registration, together with a map showing the subdivision proposed or made, and the dimensions of the lots, parcels, units, or interests, as available, and the relation of such lands to existing streets, roads, and other improvements;

(6) Copies of the deed or other instrument establishing title to the subdivision in the developer, and a statement in a form acceptable to the agency of the condition of the title to the land comprising the development, including encumbrances as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney, or by other evidence of title acceptable to the agency;

(7) Copies of the instrument which will be delivered to a purchaser to evidence his interest in the development, and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) Copies of any management agreements, service contracts, or other contracts or agreements affecting the use, maintenance or access of all or a part of the development;

(9) A statement of the zoning and other government regulations affecting the use of the development including the site plans and building permits and their status, and also of any existing tax and existing or proposed special taxes or assessments which affect the development; and a statement of the existing use of adjoining lands;

(10) A statement that the lots, parcels, units or interests in the development will be offered to the public, and that responses to applications will be made without regard to marital status, sex, race, creed, or national origin;

(11) A statement of the present condition of access to the development, the existence of any unusual conditions relating to noise or safety, which affect the development and are known to the developer, the availability of sewage disposal facilities and other public utilities including water, electricity, gas, and telephone facilities in the development to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(12) In the case of any conversion an engineering survey shall be required, which shall include mechanical, structural, electrical and engineering reports to disclose the condition of the building;

(13) In the case of any development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;

(14) A narrative description of the promotional plan for the disposition of the lots, parcels, units or interests in the development, together with copies of all advertising material which has been prepared for public distribution, and an indication of their means of communication;

(15) The proposed public offering statement;

(16) A current financial statement, which shall include such information concerning the developer as the agency deems to be pertinent, including but not limited to, a profit and loss statement certified by an independent public accountant and information concerning any adjudication of bankruptcy during the last five years against the developer, or any principal owning more than 10% of the interest in the development at the time of filing, provided, however, that this shall not extend to limited partners, or others whose interests are solely those of investors;

(17) Copies of instruments creating easements or other restrictions;

(18) A statement of the status of compliance with the requirements of all laws, ordinances, regulations, and other requirements of governmental agencies having jurisdiction over the premises;

(19) Such other information, documentation, or certification as the agency deems necessary in furtherance of the protective purposes of this act.

b. The information contained in any application for registration and copies thereof, shall be made available to interested parties at a reasonable charge and under such regulations as the agency may prescribe.

c. A developer may register additional property pursuant to the same common promotional plan as those previously registered by submitting another application, providing such additional information as may be necessary to register the additional lots, parcels, units or interests, which shall be known as a consolidated filing.

d. The developer shall immediately report any material changes in the information contained in an application for registration. The term "material changes" shall be further defined by the agency in its regulations.

e. The application shall be accompanied by a fee in an amount equal to $500.00 plus $35.00 per lot, parcel, unit, or interest contained in the application, which fees may be used by the agency to partially defray the cost of rendering services under the act. If the fees are insufficient to defray the cost of rendering services under P.L.1977, c.419 (C.45:22A-21 et seq.), the agency shall, by regulation, establish a revised fee schedule. The revised fee schedule shall assure that the fees collected reasonably cover but do not exceed the expenses and administration of implementing P.L.1977, c.419 (C.45:22A-21 et seq.).

f. (1) An engineering study required pursuant to paragraph (12) of subsection a. of this section shall be conducted, and the results thereof certified, by a person licensed in this State as a professional engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.).

(2) The engineer who prepares the survey shall certify to the agency whether, in his judgment, the building is in compliance with the code standards adopted under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) and the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and shall list all outstanding violations then existing in accordance with his observation and judgment. The engineer shall be immune from tort liability with regard to such certification and list in the same

manner and to the same extent as if he were a public employee protected by the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

(3) If the agency finds there is a significant discrepancy between the engineering survey submitted by the applicant and an engineering survey submitted by any tenant or tenants currently residing in the building, the agency shall investigate the matter in order to determine the true state of facts prior to approving the application. The agency may use its own staff or contract with independent professionals, and may conduct hearings in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Any cost to the agency of hiring independent professionals shall be borne by the applicant developer at the discretion of the agency.

22. Section 8 of P.L.1977, c.419 (C.45:22A-28) is amended to read as follows:

C.45:22A-8 Public offering statements, requisites.

8. a. A public offering statement shall disclose fully and accurately the characteristics of the development and the lots, parcels, units, or interests therein offered, and shall make known to prospective purchasers all unusual or material circumstances or features affecting the development. The proposed public offering statement submitted to the agency shall be in a form prescribed by its rules and regulations and shall include the following:

(1) The name and principal address of the developer;

(2) A general narrative description of the development stating the total number of lots, units, parcels, or interests in the offering, and the total number of such interests planned to be sold, leased or otherwise transferred;

(3) Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the development, with a brief and simple narrative statement of the effect of each such agreement upon a purchaser, and a statement of the relationship, if any, between the developer and the managing agent or firm;

(4) (a) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations, affecting such lands and each unit, lot, parcel, or interest, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect such lands; and

(b) In the case of a conversion subject to the provisions of the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the information required pursuant to section 14 of P.L.1991, c.509 (C.2A:18-61.53);

(5) (a) Relevant community information, including hospitals, health and recreational facilities of any kind, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities; and

(b) The estimated cost, size, date of completion, and responsibility for construction and maintenance of existing and proposed amenities which are referred to in connection with the offering or disposition of any interest in the subdivision or subdivided lands;

(6) A copy of the proposed budget for the operation and maintenance of the common or shared elements or interests;

(7) Additional information required by the agency to assure full and fair disclosure to prospective purchasers.

b. The public offering statement shall not be used for any promotional purposes before registration of the development and afterwards only if it is used in its entirety. No person may advertise or represent that the agency approves or recommends the development or dispositions therein. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement, unless the agency requires or permits it.

c. The agency may require the developer to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of a planned real estate development may be made after registration without the approval of the agency. A public offering statement shall not be current unless all amendments have been incorporated.

d. The public offering statement shall, to the extent possible combine simplicity and accuracy of information, in order to facilitate purchaser understanding of the totality of rights, privileges obligations and restrictions, comprehended under the propose plan of development. In reviewing such public offering statement the agency shall pay close attention to the requirements of this subsection, and shall use its discretion to require revision of a public offering statement which is unnecessarily complex, confusing, or is illegible by reason of type size or otherwise.

23. Section 11 of P.L.1981, c.226 (C.2A:18-61.32) amended to read as follows:

C.2A:18-61.32 Termination of protected tenancy.

11. The administrative agency or officer shall terminate the protected tenancy status immediately upon finding that:

a. The dwelling unit is no longer the principal residence of the senior citizen tenant or disabled tenant; or

b. The tenant's annual household income, or the average of the tenant's annual household income for the current year, computed on an annual basis, and the tenant's annual household income for the two preceding years, whichever is less, exceeds an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or $50,000.00, whichever is greater.

The department shall adjust the county per capita personal income to be used in subsection b. of this section if there is a difference of one or more years between (1) the year in which the last reported county per capita personal income was based and (2) the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

Upon the termination of the protected tenancy status by the administrative agency or officer, the senior citizen tenant or disabled tenant may be removed from the dwelling unit pursuant to P.L.1974, c.49 (C.2A:18-61.1 et al.), except that all notice and other times set forth therein shall be calculated and extend from the date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the senior citizen tenant or disabled tenant during the protected tenancy period, whichever shall be later.

If the administrative agency determines pursuant to this section that a tenant is no longer qualified for protected tenancy under this act, the administrative agency shall proceed to determine the eligibility of that tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), or, in any case in which the administrative agency is not the same as the agency administering that other act in the municipality, refer the case to

the appropriate administrative agency for such determination. If the tenant is found to be eligible under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), his protected tenancy status shall be continued. The protected tenancy status of the tenant shall remain in full force pending such determination.

C.2A:18-61.58 Severability.

24. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which the judgment shall have been rendered.

C.2A:18-61.59 Rules, regulations.

25. The commissioner is authorized to adopt, in accordance with the provisions of 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, including but not limited to, the prescribing of administrative and notification procedures which integrate the procedural requirements of this act with those of P.L.1981, c.226 (C.2A:18-61.22 et al.) in order to facilitate the efficient administration of both acts.

26. This act shall take effect June 1, 1992.

Approved January 18, 1992.

CHAPTER 510

AN ACT establishing the New Jersey Redistricting Commission, supplementing Title 19 of the Revised Statutes, repealing sections 1 and 2 of P.L.1982, c.1 and making an appropriation.

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

C.19:46-6 New Jersey Redistricting Commission.

1. There is hereby established the New Jersey Redistricting Commission, which shall establish the Congressional districts for use in the decade of the 1990s.

C.19:46-7 Membership of commission.

2. a. The commission shall consist of 13 members. The members of the commission shall be appointed with due consideration to geographic, ethnic and racial diversity and in the manner provided herein.

b. There shall first be appointed 12 as follows:

(1) two members to be appointed by the President of the Senate;

(2) two members to be appointed by the Speaker of the General Assembly;

(3) two members to be appointed by the minority leader of the Senate;

(4) two members to be appointed by the minority leader of the General Assembly; and

(5) four members, two to be appointed by the chairman of the State committee of the political party whose candidate for Governor received the largest numbers of votes at the most recent gubernatorial election and two to be appointed by the chairman of the State committee of the political party whose candidate for Governor received the next largest number of votes at that election.

Appointments to the commission under this subsection shall be made as soon as practicable after the enactment of this act but not later than the seventh day after enactment and shall be certified by the appointing authorities to the Secretary of State as soon as practicable thereafter but no later than the fifth day after the appointments are made.

c. There shall then be appointed one member, to serve as an independent member, who shall not have held elected public or party office in this State at any time during the three year period immediately prior to appointment to the commission. The independent member shall be appointed by the previously appointed members of the commission as follows: the members appointed by the appointing officials of the political party whose candidate for Governor received the largest number of votes at the preceding gubernatorial election shall as a group select three nominees meeting the foregoing qualifications, and the members appointed by the appointing officials of the political party whose candidate for Governor received the next largest number of votes at that election shall do the same. If one person is nominated by both groups, then that person shall be the independent member, and if more than one person is nominated by both groups, the previous appointees shall by lot choose one of them to be the independent member. If no person is nominated by both groups, the members shall elect the independent member by ballot upon the vote of seven of the previously appointed members.

Appointment to the commission of the independent member under this subsection shall be made as soon as practicable but no later than the seventh day after the appointment of the other members of the commission and the certification shall be made as soon as practicable thereafter but no later than the fifth day after the appointment is made. Once selected, the independent member shall serve as chairman of the commission. If the other members are unable to appoint an independent member within the time allowed therefor, the appointment of those other members shall be void and each of the appointing officials shall, as soon as practicable, appoint to be members of the commission persons other than those originally selected to be members and the selection process of the independent member shall proceed again as provided for by this section.

d. No person shall serve as a member of the commission who is a member of the Congress of the United States or a Congressional employee or has served as such during the one-year period prior to the appointment of the members of the commission.

C.19:46-8 Organizational meeting; quorum; vacancies.

3. The commission shall meet to organize as soon as may be practicable after the appointment of the independent member but not later than February 15, 1992. At the organizational meeting the members of the commission shall determine such organizational matters as they deem appropriate. Thereafter, a meeting of the commission may be called by the chairman or upon the request of seven members, and seven members of the commission shall constitute a quorum at any meeting thereof for the purpose of taking any action.

Vacancies in the membership of the commission occurring prior to the certification by the commission of Congressional districts or during any period in which the districts established by the commission may be or are under challenge in the courts of this State or the courts of the United States shall be filled within five days of their occurrence in the same manner as the original appointments were made.

C.19:46-9 Certification of Congressional districts.

4. On or before March 20, 1992, or within three months after receipt by the Governor of the official statement by the Clerk of the House of Representatives regarding the number of Representatives to which the State is entitled, pursuant to section 2a of 2 U.S.C., whichever is later, the commission shall certify the establishment of the Congressional districts to the Secretary of State. The commission shall certify the

establishment of districts pursuant to a majority vote of its members. Any vote by the commission upon a proposal to certify the establishment of a Congressional district plan shall be taken by roll call and shall be recorded, and the vote of any member in favor of any Congressional district plan shall nullify any vote which he shall previously have cast during the life of the commission in favor of a different Congressional district plan. Any Congressional district plan introduced by a member of the commission shall be considered for adoption by the commission and subject to a recorded vote to ascertain the level of support for that plan among the members. If the commission is unable to certify the establishment of districts by the time required due to the inability of a plan to achieve seven votes, the two district plans receiving the greatest number of votes, but not fewer than five votes, shall be submitted to the Supreme Court, which shall select and certify whichever of the two plans so submitted conforms most closely to the standards established in section 5 of this act. The independent member of the commission may vote only when the vote of the other members of the commission in favor of a Congressional district plan results in a tie.

C.19:46-10 Districting standards.

5. a. The plan certified by the New Jersey Redistricting Commission for the establishment of Congressional districts shall provide for equality of population among districts; for the preservation of minority voting status within each district; for the geographical contiguity of individual districts; and for reasonable protection for districts from decade to decade against disruptive alteration due to redistricting.

b. (1) In the plan, the population of each Congressional district shall be as nearly equal as practicable, and the difference in population between the most populous and least populous districts as small as practicable, as required by the Constitution of the United States and all applicable decisions of the Supreme Court of the United States.

(2) No Congressional district shall be established which fragments an ethnic or racial minority community which, if left intact, would constitute a majority or significant number of voters or potential voters within a single district with the ability to elect the candidate of their choice. For the purposes of this paragraph, a minority community means any group enjoying special protection under the civil rights provisions of the Constitution of the United States and the federal "Voting Rights Act of 1965," as amended and supplemented (42 U.S.C. § 1973 et seq.).

c. Congressional districts shall be drawn so that they are contiguous.

d. To the fullest extent reasonable and when not in conflict with the foregoing standards, Congressional districts shall be drawn to preserve continuity from decade to decade.

C.19:46-11 Meetings of the commission.

6. Meetings of the New Jersey Redistricting Commission shall be held at convenient times and locations. The commission shall hold at least three public hearings in different parts of the State. The commission shall, subject to the constraints of time and convenience, review written plans for the establishment of Congressional districts submitted by members of the general public. Notwithstanding any statute, rule or regulation to the contrary, the commission shall not be subject to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

C.19:46-12 Use of districts.

7. The establishment of Congressional districts shall be used thereafter for the election of members of the House of Representatives and shall remain unaltered through the next year ending in zero in which a federal census for New Jersey is taken, unless such districts are ruled invalid by the courts of this State or the United States.

C.19:46-13 Original and exclusive jurisdiction of Supreme Court.

8. Notwithstanding any statute, rule or regulation to the contrary and except as otherwise required by the Constitution of the United States or by any federal law, no court of this State shall have jurisdiction over any judicial proceeding challenging the actions of the New Jersey Redistricting Commission, including its establishment of Congressional districts under this act, except that the Supreme Court of this State shall have original and exclusive jurisdiction to consider any cause brought upon the petition of a legally qualified voter of the State and to grant relief appropriate to the cause, including the issuance of an order to the commission to establish new districts. The Court shall give any petition filed as provided herein precedence over all other matters. It shall render judgment within 30 days of the date on which the petition is filed.

C.19:46-14 Assistance to commission.

9. The commission shall be entitled to call to its assistance and avail itself of the services of such staff or employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for its purposes, and to employ such stenographic, clerical and professional assistance as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

10. There is appropriated from the General Fund to the New Jersey Redistricting Commission $250,000 for the purposes of this act.

Repealer.

11. Sections 1 and 2 of P.L.1982, c.1 (C.19:46-4 and 5) are repealed.

12. This act shall take effect January 15, 1992 and sections 1 through 9 shall expire on January 1, 2001.

Approved January 21, 1992.

CHAPTER 511

AN ACT concerning the pensions of widows and widowers of members of the Police and Firemen's Retirement System of New Jersey, amending P.L.1967, c.250 and supplementing P.L.1958, c.143 (C.43:3B-1 et seq.).

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

1. Section 26 of P.L.1967, c.250 (C.43:16A-12.1) is amended to read as follows:

C.43:16A-12.1 Survivors' benefits.

26. a. Upon the death after retirement of any member of the retirement system there shall be paid to his widow or widower a pension of 50% of average final compensation for the use of herself or himself, to continue during her or his widowhood, plus 15% of such compensation payable to one surviving child or an additional 25% of such compensation to two or more children; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of average final compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation would be payable to such children in equal shares.

b. The increased pension benefits payable under this act shall apply only to cases where such policeman or fireman retires on or after December 18, 1967 and shall not affect pensions paid or to be paid as a result of retirements occurring prior to said date. The

increased pension benefits payable under this subsection of this 1991 amendatory and supplementary act shall apply only to pension benefits payable on or after the effective date of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

c. As of the effective date of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.), all widows' and widowers' pensions previously granted or to be granted pursuant to the provisions of subsection a. of this section or section 10 of chapter 255 of the laws of 1944, as amended, and all such pensions previously granted, or to be granted where retirement for accidental disability occurred prior to December 18, 1967, pursuant to the provisions of section 7(3) of chapter 255 of the laws of 1944 prior to the amendment of that section by P.L.1967, c.250, will be subject to a minimum, annual, aggregate payment of $4,500. The increased pension benefits payable under this subsection of this 1991 amendatory and supplementary act shall apply only to pension benefits payable on or after the effective date of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

d. The State shall reimburse local governments for additional pension costs arising from any increase in the annual pension payable to a widow or widower pursuant to this section of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

C.43:3B-8.4 Calculation of annual adjustment.

2. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not apply to section 26 of P.L.1967, c.250 (C.43:16A-12.1) as amended by this amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.), and the annual cost of living adjustment received by widows and widowers under P.L.1958, c.143 (C.43:3B-1 et seq.) shall be calculated as of the date of the benefit year of the member of the retirement system.

C.43:16A-15.7 Liability for increased pension and adjustments.

3. The actuary for the Police and Firemen's Retirement System shall determine for the valuation period of the retirement system in which this act takes effect the liability of the retirement system for the increased pension and pension adjustment benefits provided under this act for all participants of the retirement system as of the last day of the valuation period. This liability shall be added to the unfunded accrued liability of the retirement system and shall be paid by the State in the same manner and over the remaining time period provided for the State's unfunded accrued liability under section 15 of P.L.1944, c.255 (C.43:16A-15). The actuary shall determine annually thereafter the liability of the retire-

ment system for the increased pension and pension adjustment benefits provided under this act for new participants which shall be included in the normal contribution paid by the State. The State shall pay the cost of the actuarial work to determine the additional liabilities of the retirement system for the benefits under this act.

4. This act shall take effect upon the enactment into law of P.L.1991, c.382 (C.52:9HH-1 et seq.).

Approved January 18, 1992.

CHAPTER 512

AN ACT providing for the licensing of orthotists and prosthetists by the Orthotics and Prosthetics Board of Examiners within the Division of Consumer Affairs in the Department of Law and Public Safety, supplementing Title 45 of the Revised Statutes and making an appropriation.

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

C.45:12B-1 Short title.

1. This act shall be known and may be cited as the "Orthotist and Prosthetist Licensing Act."

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.

The Legislature further finds and declares that peer regulation and the creation of a new board of examiners to carry out the provisions of this act are not in the public interest, and it is thus necessary to devise a regulatory mechanism which is consonant with the licensing policies of this State.

C.45:12B-3 Definitions.

3. As used in this act:

"Board" means the Orthotics and Prosthetics Board of Examiners created by section 4 of this act.

"Chairperson" means the member that is elected yearly by the board.

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

"Orthotic appliance" means, solely for the purposes of this act, a brace or support but does not include fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.

"Orthotics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing orthotic appliances for the correction or alleviation of musculoskeletal diseases, injuries, or deformities as permitted by prescriptions from a licensed doctor of medicine, dentist, or podiatrist.

"Licensed orthotist" means any person who practices orthotics and who represents himself to the public by title or by description of services, under any title incorporating such terms as "orthotics," "orthotists," "orthotic," or "L.O." or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 11 of this act and has been duly licensed under this act.

"Person" means any individual, corporation, partnership, association, or other organization.

"Prosthetic appliance" means, solely for the purposes of this act, any artificial device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including devices such as artificial limbs, hands, fingers, feet and toes, but excluding dental appliances and largely cosmetic devices such as artificial breasts, eyelashes, wigs, or other

devices which could not by their use have a significantly detrimental impact upon the musculoskeletal functions of the body.

"Prosthetics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing prosthetic appliances as permitted by prescriptions from a licensed doctor of medicine or podiatry.

"Licensed prosthetist" means a person who practices prosthetics and who represents himself to the public by title or by description of services, under any title incorporating such terms as "prosthetics," "prosthetist," "prosthetic," or "L.P." or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 11 and has been duly licensed under this act.

"Licensed prosthetist-orthotist" means any person who practices both disciplines of prosthetics and orthotics and who represents himself to the public by title or by description of services, under any title incorporating such terms as "prosthetics-orthotics," "prosthetist-orthotist," "prosthetic- orthotic," or "L.P.O." or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 11 and has been duly licensed in both disciplines of prosthetics and orthotics under this act.

C.45:12B-4 Board of Examiners, creation, purpose.

4. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the Orthotics and Prosthetics Board of Examiners. The board shall be responsible for the licensure of orthotists and prosthetists and persons eligible to be licensed in both disciplines of prosthetics and orthotics as licensed prosthetist-orthotists.

C.45:12B-5 Membership of the board.

5. The board shall consist of 11 residents of this State, 10 of whom shall be appointed by the Governor with the advice and consent of the Senate, as follows. Two members shall be orthotists who shall fulfill the licensure requirements of this act, and two members shall be prosthetists who shall fulfill the licensure requirements of this act. Two members shall be prosthetist-orthotists who shall fulfill the licensure requirements of this act. One member shall be licensed to practice medicine and surgery in this State pursuant to chapter 9 of Title 45 of the Revised Statutes and one member shall be a doctor of podiatric medicine licensed to practice podiatry pursuant to chapter 5 of Title 45 of the Revised

Statutes. Two members shall be public members, one of whom is a prosthetic user and one of whom is an orthotic user. One member shall be a member of the executive branch who shall be appointed by the Governor. Members shall be appointed to affect balanced geographic representation from the central, northern and southern areas of the State. The board shall annually elect from its members a chairperson and a vice-chairperson.

C.45:12B-6 Terms of members, vacancies.

6. Each member of the board, except the members first appointed, shall serve for a term of three years and shall hold office until the appointment and qualification of his successor. The initial appointments to the board shall be: three members for a term of one year, four members for terms of two years, and four members for terms of three years. No member shall serve more than two terms or for a total of more than six years.

The orthotist, prosthetist and prosthetist-orthotist members of the initial board shall be deemed to be and shall become licensed practicing orthotists, prosthetists and prosthetist-orthotists immediately upon their appointment and qualification as members of the board, provided that these members meet all other requirements for licensure under this act within 18 months of their appointment. Vacancies shall be filled for the unexpired term only.

C.45:12B-7 Oath of members, meetings.

7. The members of the board, before entering the discharge of their duties, and within 30 days of their appointment, shall take and subscribe to an oath before an officer authorized to administer oaths in this State for the faithful performance of their duties and shall file the oath with the Secretary of State.

Regular meetings of the board shall be held at such times and places as the chairperson prescribes, and special meetings may be held upon the call of the chairperson or the vice-chairperson in the chairperson's absence. At least one regular meeting shall be held each year.

C.45:12B-8 Reimbursement for expenses.

8. The members of the board shall serve without compensation. Members shall be reimbursed by the State Treasurer for their actual expenses arising out of their service on the board. All reimbursements shall be paid from the revenues of the board.

No officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments by reason of his appointment to the board or his

appointment as a consultant to the board or his performance of other services for the board.

C.45:12B-9 Duties of the board.

9. The board shall have the following duties:

a. To establish minimum requirements for orthotist, prosthetist and prosthetist-orthotist licenses;

b. To establish standards, guidelines, and procedures for the completion of clinical internships;

c. To evaluate the qualifications of all applicants for licensure as orthotists, prosthetists and prosthetist-orthotists;

d. To supervise the examination of applicants;

e. To establish basic requirements for continuing education; and

f. To take any actions at the chairperson's request which may be necessary or appropriate to achieve the purposes of this act.

C.45:12B-10 Executive director of board.

10. There shall be an Executive Director of the board appointed by the director who 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 as are necessary to administer this act.

C.45:12B-11 Eligibility for license, examinations.

11. To be eligible for a license to practice orthotics or prosthetics in this State, an individual shall:

a. Possess a bachelor's degree or its equivalent from an accredited college or university approved by the Department of Higher Education;

b. Have the amount of formal training, including any hours of classroom education and clinical practice, in any areas of study as the board deems necessary and appropriate;

c. Complete a clinical internship in the professional area for which a license is sought in accordance with any standards, guidelines, or procedures for clinical internships inside or outside this State established by the board;

d. Pass all written, practical and oral examinations, which shall be approved and required by the board and which shall be administered at least once each year.

The standards and requirements for licensure established by the board shall be substantially equal to or in excess of standards commonly accepted in the fields of orthotics and prosthetics.

C.45:12B-12 License based on experience.

12. Any person who has practiced full-time for the past five years in an established prosthetic-orthotic facility as an orthotist, prosthetist, or prosthetist-orthotist as of the effective date of this act may file an application with the board within 180 days of the effective date of this act in order to continue to practice orthotics or prosthetics under the provisions of this act. The applicant may obtain a license to practice orthotics or prosthetics under the provisions of this act without taking an examination, as required in subsection d. of section 11 of this act, upon receipt of payment of the licensing fee required pursuant to section 21 of this act and after the board has completed an investigation into the applicant's work history. The board shall complete its investigation for the purposes of this section within six months of the date of receipt of the application.

C.45:12B-13 Licenses, duration, practice.

13. The board shall issue a license to practice orthotics or prosthetics to all applicants who meet the qualifications established pursuant to this act. Licenses shall be effective for a two-year period and may be renewed biennially.

Licensure shall be granted independently in orthotics or prosthetics. An individual may be licensed in both disciplines if that person meets the standards set forth by the board.

C.45:12B-14 Temporary licenses.

14. The board may issue a temporary license to:

a. Any individual who presents bona fide proof that he was actively engaged in the full-time practice of orthotics, prosthetics, or both, in this State for two of the last five years immediately preceding the date of enactment of this act; or

b. Any individual who has recently become a resident of this State, who has applied for licensure as an orthotist, prosthetist, or both, and who has been licensed by the state of his former residence.

A temporary license shall expire in one year. A temporary license may be renewed for up to one year if an applicant presents sufficient evidence of good cause for renewal.

C.45:12B-15 Student registrations.

15. The board may issue a student registration to any person who has received a bachelor's degree from an accredited college or university approved by the Department of Higher Education and who is working toward fulfillment of the requirements for licensure as an orthotist, prosthetist or prosthetist-orthotist. A student registrant shall work only under the direct and immediate

supervision of a licensed orthotist, prosthetist or prosthetist-orthotist, who shall be responsible for the actions of the registrant. Student registrations shall be in effect for a period of two years and may be renewed once for an additional two years.

C.45:12B-16 Reciprocal license.

16. The board may accept in lieu of a written examination proof that an applicant for licensure holds a current license in a state which has standards essentially equivalent to those of this State.

C.45:12B-17 License required to practice.

17. No person shall practice, attempt to practice, or hold himself or itself out as being able to practice orthotics or prosthetics in this State unless that person is licensed in accordance with the provisions of this act.

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; or

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 less than three months and the braces do not become the patient's property.

C.45:12B-19 Continuing education requirement.

19. All applicants for license renewal shall submit to the board evidence of satisfactory completion of the continuing education requirements established and published by the board.

The board shall notify each licensed individual of any failure to comply with this requirement, and shall further notify such a person that upon continued failure to comply within three months of the date of the notice, the board may take any action authorized by section 23 of this act, concerning the suspension or revocation of a license.

C.45:12B-20 Current address requirement, publication.

20. Every licensed practitioner of orthotics, prosthetics, or both, in this State shall notify the board of the practitioner's office address. Every practitioner shall promptly notify the board

of any change of office address. The board shall annually publish complete lists of the names and office addresses of all orthotists, prosthetists and prosthetist-orthotists licensed and practicing in this State.

C.45:12B-21 Fees of board.

21. All applicants for licenses, temporary licenses, student registrations, or renewals under this act shall pay a fee for the issuance or renewal. Fees shall be determined by the board. The revenue generated from these fees shall not exceed the operating costs incurred by the board under this act.

C.45:12B-22 Costs of act to be sustained by revenue from act.

22. All fees and fines imposed by the board shall be forwarded to the State Treasurer for deposit in the General Fund. Any expenditure deemed necessary to carry out the provisions of this act shall be paid by the State Treasurer from the funds collected and forwarded by the board. The expenditures made pursuant to this act shall not exceed the revenues from the operation of this act during any fiscal year.

C.45:12B-23 Suspension, revocation, etc. of licenses, grounds.

23. The board may, upon notice and opportunity for a hearing, revoke, suspend, or refuse to renew any license, temporary license, or student registration issued pursuant to this act, upon a finding:

a. That the license or student registration was obtained by means of fraud, misrepresentation, or concealment of material facts;

b. Of fraud or deceit in connection with services rendered;

c. Of unprofessional or unethical conduct;

d. Of gross negligence or malpractice; or

e. That any provision of this act, or any rule or regulation promulgated pursuant to this act, has been violated.

C.45:12B-24 Restoration of licenses.

24. A license or student registration may be restored after one year from the date of its revocation by the board on whatever conditional terms the board deems necessary.

C.45:12B-25 Violations, penalties.

25. A person who violates any provision of this act shall be subject to a penalty of $200 for the first offense and $500 for each subsequent offense, to be sued for and recovered by and in the name of the board pursuant to the provisions of "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

If any person practices or attempts to practice orthotics or prosthetics or holds himself or herself out as being able to practice orthotics or prosthetics in violation of section 17 of this act, each day during which the violation continues shall constitute an additional, separate, and distinct offense for the purposes of this section.

C.45:12B-26 Rules, regulations.

26. The board shall adopt, amend, or repeal any regulation as the board deems necessary or desirable to protect the public interest, provided that any regulation adopted, amended, or repealed shall be consistent with the purposes of this act, with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and with any other federal or State statute, rule, or regulation concerning the use or distribution of orthotic and prosthetic appliances, except that the initial rules and regulations shall be promulgated by the director.

27. There is appropriated from the General Fund a sum of $10,000 to the Orthotics and Prosthetics Board of Examiners for the implementation of this act. The amount collected by the board for fees and other charges pursuant to the provisions of this act during the first 18 months after the effective date of this act shall be used to reimburse the General Fund for the amount appropriated from the General Fund pursuant to this section.

28. This act shall take effect immediately, but section 17 shall take effect on the first day of the 13th month after the effective date of this act.

Approved January 19, 1992.

CHAPTER 513

AN ACT concerning the salaries and tenure of judges of the Division of Workers' Compensation and the salaries of members of the Violent Crimes Compensation Board and amending R.S.34:15-49 and P.L.1971, c.317.

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

1. R.S.34:15-49 is amended to read as follows:

Jurisdiction of division; salaries, qualifications, tenure of judges, etc.

34:15-49. The Division of Workers' Compensation shall have the exclusive original jurisdiction of all claims for workers' compensation benefits under this chapter. The judges of the Division of Workers' Compensation shall hereinafter be appointed on a bipartisan basis by the Governor, with the advice and consent of the Senate, to initial terms of three years at an annual salary, for the first year, in an amount equal to 80% of the annual salary of a Judge of the Superior Court. During the initial three-year term, each judge shall be subject to a program of evaluation developed by the Director of the Division of Workers' Compensation. Upon receipt of a satisfactory annual evaluation from the director, the annual salary of a nontenured judge shall be increased to 83 2/3% of the annual salary of a Judge of the Superior Court after one year; 86 2/3% of the annual salary of a Judge of the Superior Court after two years; and, after three years and upon tenure as provided pursuant to the provisions of this section, the annual salary of a tenured judge of compensation shall be 90% of the annual salary of a Judge of the Superior Court. Reappointment of a judge shall be by the Governor, with the advice and consent of the Senate. The director's evaluations shall be made available to the Senate Judiciary Committee if the candidate has been renominated by the Governor. Upon confirmation after the initial three-year term, a judge of the Division of Workers' Compensation shall have tenure, and shall serve during good behavior. All judges of compensation appointed prior to the effective date of P.L.1991, c.513 shall continue to have tenure and shall continue to serve during good behavior. The annual salary of the director shall be 94% of the annual salary of a Judge of the Superior Court. The Chief Judge of Compensation shall be the Director of the Division of Workers' Compensation and may be known as the Director/Chief Judge of the division.

In addition to salary, a judge of compensation regularly assigned as an administrative supervisory judge of compensation by the director shall receive additional compensation of $2,500 per annum during the period of such assignment; and a judge of compensation regularly assigned as a supervising judge of compensation by the director shall receive additional compensation of $1,500 per annum during the period of such assignment.

Judges of compensation shall not engage in the practice of law, shall devote full time to their judicial duties, and shall have been licensed attorneys in the State of New Jersey for 10 years prior to their appointments. The director of the division shall have the same qualifications for appointment and be subject to the same restrictions as a judge of compensation.

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

C.52:4B-4 Terms of members, appointment, salary, full-time.

4. The term of office of each member of the board shall be five years and until his successor is appointed and qualifies, except that of the members first appointed one shall be appointed for a term of five years, one for a term of four years and one for a term of three years. All vacancies, except through the expiration of term, shall be filled for the unexpired term only.

Each member of the board shall be eligible for reappointment and any member of the board may be removed by the Governor for inefficiency, neglect of duty or malfeasance in office.

Each member of the board shall receive annual compensation as provided in salary range 39 of the State employee compensation plan established by the Commissioner of Personnel in accordance with Title 11A of the New Jersey Statutes, subject to any rules and regulations governing salary ranges and rates of pay established by the State Treasurer, the Commissioner of Personnel and the Director of the Division of Budget and Accounting pursuant to law, or otherwise established by law, and shall devote his full time and capacity to his duties, and shall not engage in any other occupation, profession or employment.

3. This act shall take effect on January 1, 1991.

Approved January 19, 1992.

CHAPTER 514

Note: In approving the following act certain items were deleted or reduced by the Governor. For a statement of those items, see the Governor's statement appended to Senate Bill No. 3548, dated January 19, 1992.

AN ACT cancelling certain appropriations from the "Petroleum Overcharge Reimbursement Fund," and making an appropriation.

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

1. The following portions of amounts previously appropriated from the "Petroleum Overcharge Reimbursement Fund," established pursuant to section 1 of P.L.1987, c.231 (C.52:18A-209), are cancelled:

a. Pursuant to an appropriation made by subsection c. of section 3 of P.L.1987, c.231, $3,811,891 of the amount made available to the New Jersey Housing and Mortgage Finance Agency for the Energy Conservation Rehabilitation Loan Program.

b. Pursuant to an appropriation made by subsection d. of section 3 of P.L.1987, c.231 to the Department of Commerce and Economic Development from which appropriation certain monies were made available to the Board of Public Utilities, currently allocated within the Department of the Treasury, $10,000,000 of the amount made available to the Board of Public Utilities for the Resource Recovery Loan Program.

c. Pursuant to an appropriation made by section 1 of P.L.1989, c.195, $10,000,000 of the amount made available to the New Jersey Housing and Mortgage Finance Agency for the Energy Conservation Grant program.

2. There is appropriated to the Board of Public Utilities, currently allocated within the Department of the Treasury, from the "Petroleum Overcharge Reimbursement Fund," established pursuant to section 1 of P.L.1987, c.231 (C.52:18A-209), the sum of $1,500,000 for planning and administrative costs incurred by the Board of Public Utilities for implementing the provisions of previous acts which appropriated monies from the "Petroleum Overcharge Reimbursement Fund" and made amounts available to the Board of Public Utilities for certain energy conservation programs.

3. There is appropriated to the New Jersey Transit Corporation, allocated within the Department of Transportation, from the "Petroleum Overcharge Reimbursement Fund," established pursuant to section 1 of P.L.1987, c.231, the sum of $33,900,000 for the purchase of buses.

4. The sums appropriated pursuant to this act shall be obligated by the departments receiving an appropriation within three years of the effective date of this act.

5. Within two years of the effective date of this act, the departments shall submit to the Governor and the Legislature a report detailing the proposed and actual expenditure of the sums appropriated.

6. This act shall take effect immediately.

Approved January 19, 1992.

CHAPTER 515

AN ACT concerning the Delaware River Port Authority and amending P.L.1931, c.391, authorizing the Governor, on behalf of the State of New Jersey, to enter into a supplemental compact or agreement with the Commonwealth of Pennsylvania amending the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented, and authorizing the Governor to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent to such supplemental compact or agreement.

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

1. The Governor is authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the Commonwealth of Pennsylvania amending Articles I, II, III, IV, XII and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as set forth in this 1991 amendatory act.

2. Article I of the "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented (R.S.32:3-1 et seq.), is amended to read as follows:

Delaware River Port Authority, purposes, functions.

32:3-2. The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the "commission"), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

(a) The operation and maintenance of the bridge, owned jointly by the two States, across the Delaware river between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

(b) The effectuation, establishment, construction, acquisition, operation and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

(d) Cooperation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware river and the Port District.

(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware river, between the city of Philadelphia or the county of Delaware in the Common-

wealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

(g) The promotion as a highway of commerce of the Delaware river, and the promotion of increased passenger and freight commerce on the Delaware river and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware river.

(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express, mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

(m)The unification of the ports of the Delaware river through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements or partnerships with any other port corporation, port authority or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce or economic development activity; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.

3. Article II of the agreement (R.S.32:3-3) is amended to read as follows:

Commissioners, terms, vacancies.

32:3-3. The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for

an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

Six of the eight commissioners for the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania for terms of five years. The Auditor General and the State Treasurer of said Commonwealth shall ex-officio be commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at any meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but no period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.

4. Article III of the agreement (R.S.32:3-4) is amended to read as follows:

Commissioners as board; duties; quorum; gubernatorial veto of minutes.

32:3-4. The commissioners shall have charge of the commission's property and affairs and shall for the purpose of doing business constitute a board, but no action of the commissioners shall be binding unless a majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey shall vote in favor thereof.

Notwithstanding the above, each state reserves the right to provide by law for the exercise of a veto power by the Governor of that state over any action of any commissioner from that state at any time within 10 days (Saturdays, Sundays and public holidays in the particular state excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each state may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.

5. Article IV of the agreement (R.S.32:3-5) is amended to read as follows:

Powers of commission.

32:3-5. For the effectuation of its authorized purposes the commission is hereby granted the following powers:

(a) To have perpetual succession.

(b) To sue and be sued.

(c) To adopt and use an official seal.

(d) To elect a chairman, vice-chairman, secretary and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties and compensation.

(f) To enter into contracts.

(g) To acquire, own, hire, use, operate and dispose of personal property.

(h) To acquire, own, use, lease, operate, mortgage and dispose of real property and interests in real property, and to make improvements thereon.

(i) To grant by franchise, lease or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates or other charges to be established, levied, made and collected for any use of any such property or facility, or the application, use and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates or other charges or any other revenues or moneys of the commission.

(k) To exercise the right of eminent domain within the Port District.

(l) To determine the exact location, system and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate or control.

(m) In addition to the foregoing, to exercise the powers, duties, authority and jurisdiction heretofore conferred and imposed upon the aforesaid the Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said two States.

(n) To exercise all other powers not inconsistent with the constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

(q) To establish one or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.

6. Article XII of the agreement (R.S.32:3-13) is amended to read as follows:

Annual reports, audits, master plan, additional powers.

32:3-13. The commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the

Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

(1) its operations and accomplishments during the completed fiscal year;

(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

(6) a business or strategic plan for the commission and for each of its operating divisions; and

(7) a five year capital plan.

Not less than once every five years the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within three years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.

The commission shall, not later than two years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement and operation of any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such projects and facilities, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a

reasonable opportunity for comment, consult with and consider any recommendations from State, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each state a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such ongoing projects to those State, county and municipal governments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware river at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provisions of the federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5-22 and 48:5-23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the

same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation and maintenance of one bridge across the Delaware river south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of ten miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware river between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated or maintained by the commission across or under the Delaware river north of the boundary line between Bucks county and Philadelphia county in the Commonwealth of Pennsylvania as extended

across the Delaware river to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.

7. Article XIII of the agreement, section 1 (6) of P.L.1951, c.288 (C.32:3-13.23) is amended to read as follows:

C.32:3-13.23 Definitions.

1 (6). As used herein, unless a different meaning clearly appears from the context:

"Port District" shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem in New Jersey.

"Commission" shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

"Commissioner" shall mean a member of the governing body of the Delaware River Port Authority.

"Economic development activity" or "economic development" means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.

"Terminal" shall include any marine, motor truck, motorbus, railroad and air terminal or garage, also any coal, grain and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials and supplies therefor.

"Transportation facility" and "facilities for transportation of passengers" shall include railroads operated by steam, electricity or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials and supplies therefor.

"Terminal facility" shall include wharves, piers, slips, berths, ferries, docks, dry-docks, ship repair yards, bulkheads, dock walls, basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil and fresh water stations, markets, and every kind of terminal, storage or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading or unloading of freight at terminals, and equipment, materials and supplies therefor.

"Transportation of passengers" and "passenger transportation" shall mean the transportation of passengers by railroad or other facilities.

"Rapid transit system" shall mean a transit system for the transportation of passengers, express, mail and baggage by railroad or other facilities, and equipment, materials and supplies therefor.

"Project" shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned or controlled or otherwise undertaken by the commission. "Project" shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h) and (i).

"Railroad" shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations and approaches thereto, cars and motive equipment.

"Bridge" and "tunnel" shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Com-

monwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

"Facility" shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance and operation of a facility or facilities or any one or more of them.

"Personal property" shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

"Lease" shall include rent or hire.

"Municipality" shall include a county, city, borough, village, township, town, public agency, public authority or political subdivision.

Words importing the singular number include the plural number and vice versa.

Wherever legislation or action by the Legislature of either signatory State is herein referred to it shall mean AN ACT of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.

8. The Governor is authorized to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent and approval to such supplemental compact or agreement, but in the absence of such consent and approval, the commission referred to in such supplemental compact or agreement shall have all of the powers which the Commonwealth of Pennsylvania and the State of New Jersey may confer upon it without the consent and approval of Congress.

9. This act shall take effect immediately; but the Governor shall not enter into the supplemental compact or agreement hereinabove set forth on behalf of the State of New Jersey until passage by the Commonwealth of Pennsylvania of a substantially similar act embodying the supplemental compact or agreement between the two States.

Approved January 19, 1992.

CHAPTER 516

AN ACT concerning gubernatorial veto over actions of the New Jersey commissioners to the Delaware River Port Authority, supplementing R.S.32:3-1 et seq., and repealing P.L.1966, c.72.

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

C.32:3-4a Minutes delivered to Governor.

1. a. The minutes of every meeting of the Delaware River Port Authority, established under R.S.32:3-1 et seq., shall, as soon as possible after the meeting, be delivered, by and under the certification of the secretary of the authority, to the Governor of the State of New Jersey, at the State House, in Trenton.

b. No action taken by a New Jersey commissioner at the meeting shall have force or effect for a period of 10 days, excepting Saturdays, Sundays and State public holidays, after the minutes have been delivered to the Governor under this section, unless the Governor approves the minutes, or any part thereof, in writing, by reciting the action approved, within this 10-day period. This veto power shall not be construed to affect the covenants contained in the bonds of the authority.

C.32:3-4b Minutes returned.

2. The Governor of New Jersey shall return the minutes to the Delaware River Port Authority, not later than the 10-day period described in subsection b. of section 1 of this act, either with or without a veto of any action recited in the minutes to have been taken by a commissioner appointed from New Jersey. If the Governor does not return the minutes within this 10-day period, the action taken by the New Jersey commissioners shall have the force and effect as recited in the minutes, according to the wording thereof.

C.32:3-4c Effect of veto.

3. If the Governor of New Jersey, within the 10-day period described in subsection b. of section 1 of this act, returns the minutes to the Delaware River Port Authority with a veto against the action of a commissioner from New Jersey, the action of that commissioner shall be null and void and of no effect.

Repealer.

4. P.L.1966, c.72 (C.32:3-4.1 through 4.4, inclusive) is repealed.

5. This act shall take effect immediately, but shall remain inoperative until the enactment into law of P.L.1991, c.515

(R.S.32:3-4 et al.), the enactment into law of legislation substantially similar to P.L.1991, c.515 by the Commonwealth of Pennsylvania, and the approval, by Congress, if necessary, of the supplemental compact or agreement provided for in P.L.1991, c.515.

Approved January 19, 1992.

CHAPTER 517

Note: In approving the following act, certain items were deleted or reduced by the Governor. For a statement of those items, see the Governor's statement appended to Senate Bill No. 3800, dated January 19, 1992.

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, 1992 and regulating the disbursement thereof," approved June 30, 1991 (P.L.1991, c.185).

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.1991, c.185 and the general provisions contained therein, there are appropriated out of the General Fund the following sums for the purposes specified, and amendments to general provisions as follows:

STATE OPERATIONS
LEGISLATIVE BRANCH
01 Legislature
70 Government Direction, Management and Control
71 Legislative Activities

0001 Senate

01-0001 Senate	$300,000
Special Purpose:	
Transition expenses ..... ($300,000)	

0002 General Assembly

02-0002 General Assembly.....	$100,000
Special Purpose:	
Transition expenses..... ($100,000)	
Total Appropriation, Legislature.....	$400,000

0003 Office of Legislative Services

03-0003 Legislative Support Services.....	$282,000
Special Purpose:	
Transition expenses ..... ($282,000)	

09 Legislative Commissions

0039 County and Municipal Government Study Commission

09-0039 County and Municipal Government Study Commission.....	$50,000
Special Purpose:	
Expenses of the Commission. ..... ($50,000)	

0040 Apportionment Commission

09-0040 Apportionment Commission.....	$300,000
Special Purpose:	
Expenses of the Commission ..... ($300,000)	
Total Appropriation, Legislative Commissions.	$350,000
Total Appropriation, Legislative Branch.	$1,032,000

EXECUTIVE BRANCH

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

11 Vehicular Safety

02-1110 Licensing, Registration and Inspection Services	$3,750,000
Personal Services:	
Salaries and wages ..... ($2,000,000)	
Special Purpose:	
Agency operations..... (1,750,000)	

Notwithstanding the provisions of the "Fair Automobile Insurance Reform Act of 1990," P.L.1990, c.8 (C.17:33B-1 et seq.), receipts derived from civil penalties collected pursuant to subsection d. of section 50 of P.L.1990, c.8 (C.17:33B-41) are appropriated for operational expenses of the Division of Motor Vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

80 Special Government Services

82 Protection of Citizens' Rights

1310 Division of Consumer Affairs

Receipts in excess of the amount anticipated are appropriated to the Securities Enforcement Fund program account to offset the

cost of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Law and Public Safety $3,750,000

94 INTERDEPARTMENTAL ACCOUNTS

70 Government Direction, Management and Control

74 General Government Services

9410 Employee Benefits

03-9410 Employee Benefits..... $9,000,000

Special Purpose:

Social Security tax..... ($9,000,000)

Notwithstanding the provisions of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for members and beneficiaries of the Consolidated Police and Firemen's Pension Fund shall be paid by the fund. Employer appropriations for these benefits as required under the act shall be paid to the fund.

9420 State Contingency Fund

04-9420 State Contingency Fund..... $3,200,000

Special Purpose:

Restoration to Emergency Services Fund ..... (3,200,000)

Total Appropriation, Interdepartmental Accounts $12,200,000

Total Appropriation, State Operations $16,982,000

INSTITUTIONAL PROGRAMS

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

32 Operation and Support of Educational Institutions

Students attending Project COED shall be supported by tuition paid by the sending school district, calculated for each half-time student enrolled as of January 15, 1992 by multiplying the per pupil foundation amount by 0.5. The foundation amount is to be derived according to the following formula: (($6,640 x 1.33) + ($6,835 x 0.26)). Sending school districts shall be eligible for aid for each half-time student pursuant to section 26 of P.L.1991, c.62 (C.18A:7D-21.1); such aid shall not be included when determining the maximum permissible net budget for any district. The Commissioner of Education shall deduct from the State aid payable to each sending school district the amount of

tuition required to be paid for students attending Project COED, provided however, that the difference between the total tuition charged and the aid calculated according to section 26 of P.L.1991, c.62 (C.18A:27D-21.1), not to exceed a total of $2,000,000, shall be appropriated by the Director of the Division of Budget and Accounting as a loan to the district subject to repayment within one year as agreed upon by the Superintendent of the district, the Commissioner of Education, and the Director of the Division of Budget and Accounting. Such tuition charges and loan shall not be included when determining the maximum permissible net budget for the district.

GRANTS-IN-AID

26 DEPARTMENT OF CORRECTIONS

10 Public Safety and Criminal Justice

16 Detention and Rehabilitation

7025 System-Wide Program Support--Grants-In-Aid

13-7025 Institutional Program Support $10,000,000

Grant:

Purchase of service for inmates incarcerated in county penal facilities ..... ($10,000,000)

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

45 Recreational Resource Management -- Grants-In-Aid

12-4875 Parks Management $1,000,000

Grant:

Waterloo Village ..... ($1,000,000)

The amount appropriated hereinabove for Waterloo Village shall be distributed upon approval by the Director of the Division of Budget and Accounting of a spending plan submitted by the Waterloo Foundation for the Arts which details the proposed expenditures from the grant.

46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services--Grants-In-Aid

The sum of $500,000 collected by the Casino Control Commission and transferred to the General Fund pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) as amended by P.L.1991, c.182 is appropriated to the Department of Health to provide funds to the Council on Compulsive Gambling of New Jersey.

An amount not to exceed $2,300,000 is appropriated to the Department of Health from monies deposited in the "Health Care Cost Reduction Fund" established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47) to support a minimum of two hospital and community health center initiatives to deliver primary care and reduce uncompensated care costs.

An amount not to exceed $1,500,000 is appropriated to the Department of Health from monies deposited in the "Health Care Cost Reduction Fund" established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47) to assist nonprofit community agencies in providing ambulatory services to target populations including the elderly as an alternative to costly institutional care.

50 DEPARTMENT OF HIGHER EDUCATION

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

5400 Office of the Chancellor--Grants-In-Aid

04-5400 Student Financial Support Services		$8,000,000
Grants:		
Tuition Aid Grants	($8,000,000)	
Total Appropriation, Grants-in-Aid		$19,000,000

STATE AID

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance--State Aid

01-5120 General Formula Aid		$11,000,000
State Aid:		
State-operated School District		
Differential Aid	($11,000,000)	
Total Appropriation, State Aid		$11,000,000

CAPITAL CONSTRUCTION

78 DEPARTMENT OF TRANSPORTATION

60 Transportation Programs

62 Public Transportation

There is appropriated from the revenues and other funds of the New Jersey Transportation Trust Fund Authority, pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) the amount reallocated among the specific projects identified under the general program headings as follows:

Route	Section	Description	County	Amount
8.	INTERSTATE 4R			
287	12K13J	Route 80 to Route 202, additional lane	Morris	($8,134,000)
11.	STATE			
Total Appropriation, General Fund ..				$46,982,000

2. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that sufficient funds in the "Petroleum Overcharge Reimbursement Fund" established pursuant to P.L.1987, c.231 (C.52:18A-209 et seq.) to support the expenditures listed below are available, the following sums are appropriated:

PETROLEUM OVERCHARGE REIMBURSEMENT FUND
STATE OPERATIONS
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
50 Economic Planning, Development and Security
52 Economic Regulation

Notwithstanding the provisions of subsection b. of section 3 of P.L.1987, c.231, there is cancelled $1,500,000 of the amount therein appropriated to the Department of Commerce, Energy and Economic Development from which certain monies were made available to the Board of Public Utilities for loans and grants to small businesses, farms and other eligible businesses for feasibility techniques pursuant to the Business Energy Improvement Subsidy Program, and there is appropriated from the Petroleum Overcharge Reimbursement Fund to the Department of Environmental Protection the sum of $1,500,000 for an alternate fuels demonstration project to be conducted through the State Energy Conservation Program.

STATE AID
22 DEPARTMENT OF COMMUNITY AFFAIRS
50 Economic Planning, Development and Security
55 Social Services Programs - State Aid
8050 Division of Community Resources

05-8050 Community Resources $3,000,000
State Aid:
Weatherization program..... ($3,000,000)

54 DEPARTMENT OF HUMAN SERVICES
50 Economic Planning, Development and Security
53 Economic Assistance and Security--State Aid
7550 Division of Economic Assistance

15-7550 Income Maintenance	$10,000,000
State Aid:	
Low Income Energy Assistance Program ..... ($10,000,000)	
Total Appropriation, Petroleum Overcharge Reimbursement Fund	$13,000,000

The sums appropriated pursuant to this section shall be obligated by the respective departments within three years from the effective date of this amendatory and supplementary act. The respective departments shall within two years from the effective date of this amendatory and supplementary act submit a report to the Governor and the Legislature detailing the proposed and actual expenditure of the sums appropriated pursuant to this section.

3. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that sufficient federal funds to support the expenditures listed below are available, the following sum is appropriated:

FEDERAL FUNDS
78 DEPARTMENT OF TRANSPORTATION
60 Transportation Programs
61 State Highway Facilities

95-6300 Federal Aid Highway Projects	$46,000,000
Special Purpose:	
Federal aid highway projects ..... ($46,000,000)	
Total Appropriation, Federal Funds	$46,000,000

4. This act shall take effect immediately.

Approved January 19, 1992.

CHAPTER 518

Note: In approving the following act, certain items were deleted or reduced by the Governor. For a statement of those items, see the Governor's statement appended to Assembly Bill No. 4103, dated January 19, 1992.

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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.1990, c.43, there is appropriated out of the General Fund the following sum for the purpose specified:

GRANTS-IN-AID
62 DEPARTMENT OF LABOR
50 Economic Planning, Development and Security
54 Manpower and Employment Services--Grants-In-Aid

07-4535 Vocational Rehabilitation Services	$1,500,000
Grants:	
Sheltered workshop support	($1,000,000)
Sheltered workshop job development	($500,000)

2. This act shall take effect immediately.

Approved January 19, 1992.

CHAPTER 519

AN ACT to protect all persons in their civil rights and to prevent and eliminate discrimination based on affectional or sexual orientation, and amending various parts of the statutory law.

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

1. Section 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, liability for service in the Armed Forces

of the United States, or nationality, are a matter 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 distinctions 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

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housing accommodation, and other real property without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation 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 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" includes 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 by his parents, spouse or child, or 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 institution, 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 postsecondary 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 his residence or the household of his 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 him as his residence or the household of his 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.

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 salesman" 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.

q. "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 he is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a 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" mans 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.

4. 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 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 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.

5. 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 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, religious, nationality and other 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 his place and with his 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 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 he 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 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.

6. 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 or sex. The said laws shall be so enforced in the manner prescribed in the act to which this act is a supplement.

7. 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 conciliation 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 or sex.

8. 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, nonforfeitable 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 he has opposed any practices or acts forbidden under this act or because he has filed a complaint, testified or assisted in any proceeding under 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, sex, affectional or sexual orientation 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 or affectional or sexual orientation 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 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 exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex.

h. For any real estate broker, real estate salesman 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, 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, 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, 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, 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 intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information.

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 salesman 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, 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 antisocial 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 con-

nection with a protest of unlawful discrimination or unlawful employment practices.

9. Section 26 of P.L.1945, c.169 (C.10:5-27) is amended to read as follows:

C.10:5-27 Construction of act; other laws not affected; exception; other remedies.

26. The provisions of this act shall be construed fairly and justly with due regard to the interests of all parties. Nothing contained in this act shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this State relating to discrimination because of race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex or liability for service in the Armed Forces of the United States; except that, as to practices and acts declared unlawful by section 11 of this act, the procedure herein provided shall, while pending, be exclusive; and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the individual concerned. Nothing herein contained shall bar, exclude or otherwise affect any right or action, civil or criminal, which may exist independently of any right to redress against or specific relief from any unlawful employment practice or unlawful discrimination. With respect only to affectional or sexual orientation, nothing contained herein shall be construed to require the imposition of affirmative action, plans or quotas as specific relief from an unlawful employment practice or unlawful discrimination.

10. R.S.10:2-1 is amended to read as follows:

Antidiscrimination provisions.

10:2-1. Every contract for or on behalf of the State or any county or municipality or other political subdivision of the State, or any agency of or authority created by any of the foregoing, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees that:

a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or

sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex;

c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of $50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a small business enterprise, minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

11. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read as follows:

C.10:5-31 Definitions.

1. As used in this act:

a. "Public works contract" means any contract to be performed for or on behalf of the State or any county or municipality or other political subdivision of the State, or any agency or authority created by any of the foregoing, for the construction, alteration or repair of any building or public work or for the acquisition of materials, equipment, supplies or services with respect to which discrimination in the hiring of persons for the performance of work thereunder or under any subcontract thereunder by reason of race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex is prohibited under R.S.10:2-1.

b. "Equal employment opportunity" means equality in opportunity for employment by any contractor, subcontractor or business firm engaged in the carrying out of a public works project including its development, design, acquisition, construction, management and operation.

12. Section 2 of P.L.1975, c.127 (C.10:5-32) is amended to read as follows:

C.10:5-32 Public works contract not awarded without agreement and guarantee of equal opportunity.

2. No public works contract shall be awarded by the State, a county, municipality or other political subdivision of the State, or any agency of or authority created by any of the foregoing, nor shall any moneys be paid thereunder to any contractor, subcontractor or business firm which has not agreed and guaranteed to afford equal opportunity in performance of the contract and, except with respect to affectional or sexual orientation, in accordance with an affirmative action program approved by the State Treasurer.

13. Section 3 of P.L.1975, c.127 (C.10:5-33) is amended to read as follows:

C.10:5-33 Contents of bid specs, contract provisions.

3. The State or any county or municipality or other political subdivision of the State, or any agency of or authority created by any of the foregoing, shall include in the bid specifications and the contract provisions of any public works contract the following language:

"During the performance of this contract, the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous

places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex;

c. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment."

In soliciting bids for any public works contract the State or any county or municipality or other political subdivision of the State, or any agency of or authority created by any of the foregoing, shall include in the advertisement and solicitation of bids the following language: "Bidders are required to comply with the requirements of P.L.1975, c.127."

14. Section 4 of P.L.1975, c.127 (C.10:5-34) is amended to read as follows:

C.10:5-34 Affirmative action program; submission to State Treasurer; fee; approval.

4. Each prospective bidder on a public works contract or contracts and each subcontract bidder to a prime contract bidder shall formulate and submit to the State Treasurer his or its affirmative action program of equal opportunity whereby he or it guarantees minorities employment in all employment categories; the submission shall be accompanied by a fee in an amount to be fixed by the State Treasurer. For the purposes of this section, equal employment opportunity but not affirmative action is required with respect to persons identified solely by their affectional or sexual orientation. The State Treasurer shall notify the bidder of approval or disapproval of his or its program within 60 days of its submission; failure of the State Treasurer to so act within 60 days shall constitute approval of

the program. Any existing federally approved or sanctioned affirmative action program shall be approved by the State Treasurer.

No subcontract bidder who has less than five employees need comply with the provisions of this section.

15. N.J.S. 11A:7-1 is amended to read as follows:

Equal employment opportunity.

11A:7-1. Equal employment opportunity. The head of each State agency shall ensure equality of opportunity for all of its employees and applicants seeking employment. Equal employment opportunity includes, but is not limited to, the following areas: recruitment, selection, hiring, training, promotion, transfer, layoff, return from layoff, compensation and fringe benefits. Equal employment opportunity further includes policies, procedures, and programs for recruitment, employment, training, promotion, and retention of minorities, women and handicapped persons. Equal employment opportunity but not affirmative action is required with respect to persons identified solely by their affectional or sexual orientation.

The head of each State agency shall explore innovative personnel policies in order to enhance these efforts and where appropriate shall implement them to the fullest extent authorized. Where the implementation of those policies is not authorized, an agency head shall recommend implementation to the appropriate State agency.

16. This act shall take effect immediately.

Approved January 19, 1992.

CHAPTER 520

AN ACT concerning the reduction in the use of certain toxic substances in packaging, and supplementing P.L.1970, c.39 (C.13:1E-1 et seq.).

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

C.13:1E-99.44 Short title.

1. This act shall be known and may be cited as the "Toxic Packaging Reduction Act."

C.13:1E-99.45 Findings, declarations, determinations.

2. The Legislature finds that discarded packaging constitutes the largest single category of solid waste within New Jersey's waste stream and is, therefore, a necessary focus of any effort to reduce the flow of solid waste to costly disposal facilities; that the presence of heavy metals in packaging is a matter of great concern in light of their likely presence in emissions or ash when packaging is incinerated at a resource recovery facility, or in leachate when packaging is landfilled; that lead, mercury, cadmium and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern; that it is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging; and that because New Jersey is faced with a very restricted range of disposal alternatives, the reduction at the source of toxic packaging materials can make a significant contribution to the reduction of the State's overall solid waste stream.

The Legislature further finds and declares that a Statewide solid waste reduction strategy must begin with fundamental changes in manufacturing practices and packaging processes; and that the most effective and appropriate method to promote reduction is to prohibit the distribution or sale of toxic packaging in this State.

The Legislature therefore determines that it is in the public interest to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer waste materials in the production of packaging and its components.

C.13:1E-99.46 Definitions.

3. As used in this act:

"Commissioner" means the Commissioner of Environmental Protection and Energy;

"Department" means the Department of Environmental Protection and Energy;

"Distributor" means any person who distributes packaged products intended for retail sale in packages or packaging components;

"Package" means a container specifically manufactured for the purposes of marketing, protecting or handling a product and shall include a unit package, an intermediate package and a shipping container as defined by the American Society for Testing and Materials in ASTM D996; "package" shall also mean and include such unsealed receptacles as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags and tubs;

"Package manufacturer" means any person who manufactures packages or packaging components;

"Packaging component" means any individual assembled part of a package including, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coating, closure, ink, label, dye, pigment, adhesive, stabilizer or any other additive; except that a "coating" shall not include a thin tin layer applied to base steel or sheet steel during manufacturing of the steel or package;

"Product manufacturer" means any person who purchases packages or packaging components from a package manufacturer for the purposes of marketing, protecting or handling the contents of the package or packaging component, including a product intended for retail sale;

"Retailer" means any person who engages in the sale within the State of packaged products intended for retail sale in packages or packaging components to a consumer at retail for off-premises use or consumption.

C.13:1E-99.47 Sale of certain packages, components, packaged products, restricted.

4. a. On or after January 1, 1993, no person shall sell, offer for sale, or offer for promotional purposes in this State any package or packaging component which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers or any other additives containing any lead, cadmium, mercury or hexavalent chromium which has been intentionally introduced as a chemical element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

b. On or after January 1, 1993, no person shall sell, offer for sale, or offer for promotional purposes in this State any product contained in a package which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers or any other additives containing any lead, cadmium, mercury or hexavalent chromium which has been intentionally introduced as a chemical element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

c. The sum of the concentration levels of lead, cadmium, mercury or hexavalent chromium present in any package or packaging component, which shall constitute an incidental presence, shall not exceed the following levels:

(1) Not more than 600 parts per million by weight (0.06%) after January 1, 1993;

(2) Not more than 250 parts per million by weight (0.025%) after January 1, 1994;

(3) Not more than 100 parts per million by weight (0.01%) after January 1, 1995.

C.13:1E-99.48 Exemptions, criteria.

5. a. Any package manufacturer, product manufacturer or distributor may, in accordance with rules or regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), claim an exemption from the provisions of section 4 of this act for any package or packaging component meeting any of the following criteria:

(1) Those packages or packaging components labeled with a code indicating a date of manufacture prior to January 1, 1993; except that the labeling requirement may be waived by the department in those instances where it is not feasible or practical to label individual packages or packaging components provided that suitable alternative evidence of date of manufacture is furnished to the department;

(2) Those packages or packaging components used to contain alcoholic beverages, including liquor, wine, vermouth and sparkling wine, bottled prior to January 1, 1993;

(3) Those packages or packaging components which are glass containers with ceramic labeling used to contain pharmaceutical preparations; except that the exemption provided in this paragraph shall expire on January 1, 1995;

(4) Those packages or packaging components which are glass containers with ceramic labeling used to contain cosmetics; except that the exemption provided in this paragraph shall expire on January 1, 1995;

(5) Those packages or packaging components to which lead, cadmium, mercury or hexavalent chromium have been added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of federal law;

(6) Those packages or packaging components to which lead, cadmium, mercury or hexavalent chromium have been added in the manufacturing, forming, printing or distribution process and for the use of which there is no feasible or practical alternative or substitute; except that the exemption provided in this paragraph shall expire on January 1, 1995;

(7) Those packages or packaging components that would not exceed the maximum contaminant levels set forth in subsection c. of section 4 of this act but for the addition of post-consumer waste materials; except that the exemption provided in this paragraph shall expire on January 1, 1997;

(8) Those packages or packaging components composed of metal and commonly referred to as "tin cans" that are used to contain food or food products intended for human consumption and that may exceed the maximum contaminant levels set forth in subsection c. of section 4 of this act due to the incidental presence of lead as a naturally occurring chemical element in the metal that is unrelated to the manufacturing process; or

(9) Those packages or packaging components composed of metal and commonly referred to as "tin cans" that are used to contain paint, chemicals or other nonfood products, to which lead has been added in the manufacturing process for the purposes of forming, soldering or sealing the can, or that may exceed the maximum contaminant levels set forth in subsection c. of section 4 of this act due to the incidental presence of lead as a naturally occurring chemical element in the metal that is unrelated to the manufacturing process.

The exemption provided in paragraph (6) may be renewed by the department for periods not to exceed two years, except that any renewal granted by the department for the exemption provided in paragraph (6) shall be based on evidence furnished to the department that there is no feasible or practical alternative or substitute for the specified package or packaging component.

The exemptions provided in paragraphs (8) and (9) shall expire on January 1, 1997, except that any exemption provided in paragraphs (8) or (9) may be renewed by the department after this date for periods not to exceed two years. Any renewal granted by the department for the exemption provided in paragraphs (8) or (9) shall be based on evidence furnished to the department that there is no feasible method to reduce the concentration levels of lead for the specified package or packaging component.

For the purposes of this subsection, a use for which there is "no feasible or practical alternative or substitute" means one in which the use of lead, cadmium, mercury or hexavalent chromium is essential to the protection, safe handling, or function of the contents of the package.

b. Any package manufacturer, product manufacturer or distributor claiming an exemption pursuant to subsection a. of this section shall maintain on file a written declaration of exemption for each specified package or packaging component for which an exemption

is claimed. Copies of each declaration of exemption shall be furnished to the department upon its request and to members of the public in accordance with the provisions of section 14 of this act.

c. Any product contained in a package or packaging component for which an exemption is claimed may be sold by a retailer provided that the declaration of exemption claimed is valid and in accordance with the criteria provided in subsection a. of this section, as may be verified by the department pursuant to section 9 of this act.

C.13:1E-99.49 Request for information by department.

6. a. Any person claiming an exemption pursuant to subsection a. of section 5 of this act shall maintain on file, and shall transmit, in writing, to the department upon its request, the following information:

(1) A statement setting forth the specific basis upon which the exemption is claimed;

(2) The full name, business address, telephone number and signature of the person claiming the exemption; and

(3) The full name, business address and telephone number of the authorized local representative of the person claiming the exemption.

b. The information required pursuant to this section shall be furnished to the department for each specified package or packaging component requested by the department.

C.13:1E-99.50 Fees.

7. a. The department may, in accordance with a fee schedule adopted as a rule or regulation pursuant to the provisions of the "Administrative Procedure Act," establish and charge fees for any of the services to be performed or rendered in connection with this act, and for the costs of compliance monitoring and administration.

b. The fee schedule shall reasonably reflect the duration or complexity of the specific service performed or rendered, information reviewed, or inspection, sampling or testing conducted.

C.13:1E-99.51 Certification of compliance.

8. No later than January 1, 1993, a written certification of compliance stating that a package or packaging component is in compliance with the requirements of this act shall be furnished by the package manufacturer to the product manufacturer or distributor of the product packaged in that specified package or packaging component, which certification shall be signed by an authorized representative of the package manufacturer.

a. The product manufacturer or distributor shall retain the certification of compliance for as long as the package or packaging component is in use. A copy of the certification of compliance

shall be kept on file by the package manufacturer. Copies of each certification of compliance shall be furnished to the department upon its request and to members of the public in accordance with the provisions of section 14 of this act.

b. In the event that the package manufacturer reformulates or creates a new package or packaging component, a new or amended certification of compliance shall be furnished by the package manufacturer to the product manufacturer or distributor for the reformulated or new package or packaging component.

c. The provisions of this section shall not apply to any package or packaging component for which a declaration of exemption is kept on file pursuant to subsection b. of section 5 of this act.

C.13:1E-99.52 Determination of compliance by department.

9. a. The department shall have the right to enter the premises of a package manufacturer, product manufacturer, distributor or retailer at which packages or packaging components are manufactured or stored, or at which products packaged in packages or packaging components are sold or offered for sale or for promotional purposes, in order to determine compliance with the provisions of this act, or any rule or regulation adopted pursuant thereto. The department may, at any time during normal business hours and upon presentation of appropriate credentials, conduct inspections, including the taking of samples of products packaged in a package or packaging component, for the purpose of testing the package or packaging component. The department may be required to purchase any product packaged in a package or packaging component for which a sample is sought at a retail establishment, if requested to do so by the retailer.

b. The department may request, by certified mail, that any package manufacturer, product manufacturer or distributor transmit to the department a written certification that a specified package or packaging component is in compliance with the provisions of this act. The package manufacturer, product manufacturer or distributor, as the case may be, shall submit copies of each declaration of exemption and certification of compliance to the department within 45 days of receipt of the request. Upon receipt by the department of the information requested from the package manufacturer, product manufacturer or distributor, the department shall review this information and shall verify that all certifications of compliance are complete and

that all declarations of exemption claimed are valid and in accordance with the criteria provided in section 5 of this act.

C.13:1E-99.53 Noncompliance.

10. a. Whenever the commissioner finds that a package or packaging component fails to comply with the provisions of this act, or any rule or regulation adopted pursuant thereto, the commissioner may issue an order requiring the distributor or retailer, as the department deems appropriate, to remove or arrange for the removal of the entire allotment of the product packaged in the noncomplying package or packaging component from the premises, and directing that the distributor or retailer return the entire allotment of the product packaged in the noncomplying package or packaging component to the product manufacturer for credit or reimbursement.

b. Whenever the commissioner finds that a package manufacturer, product manufacturer or distributor has failed to respond to a request for certification made by the department pursuant to subsection b. of section 9 of this act, the commissioner may issue an order requiring the package manufacturer or product manufacturer, as the department deems appropriate, to submit a specified package or packaging component to laboratory analysis, conducted at the ordered person's expense by a laboratory certified by the department in accordance with rules or regulations adopted pursuant to the "Administrative Procedure Act," in order to certify that the package or packaging component is in compliance with the provisions of this act.

c. Whenever the commissioner finds that a package or packaging component fails to comply with the provisions of this act, or any rule or regulation adopted pursuant thereto, all samples taken from the same allotment of the noncomplying package or packaging component for the purpose of testing shall constitute a single violation.

C.13:1E-99.54 Violations, penalties, remedies.

11. a. Whenever the commissioner finds that a person has violated any provision of this act, or any rule or regulation adopted pursuant thereto, the commissioner may:

(1) issue an order requiring the person found to be in violation to comply in accordance with subsection b. of this section;

(2) bring a civil action in accordance with subsection c. of this section;

(3) levy a civil administrative penalty in accordance with subsection d. of this section;

(4) bring an action for a civil penalty in accordance with subsection e. of this section; or

(5) petition the Attorney General to bring a criminal action in accordance with subsection g. of this section.

Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

b. Whenever the commissioner finds that a person has violated this act, or any rule or regulation adopted pursuant thereto, the commissioner may issue an order specifying the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation, citing the action that constituted the violation, ordering abatement of the violation, and giving notice to the person of the person's right to a hearing on the matters contained in the order. The ordered person shall have 20 calendar days from receipt of the order within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order. If no hearing is requested, the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

c. The commissioner may institute an action or proceeding in the Superior Court for injunctive and other relief to enforce the provisions of this act and to prohibit and prevent a violation of this act, or of any rule or regulation adopted pursuant thereto, and the court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief.

Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) assessment of the violator for the reasonable costs of any inspection, including the costs of any sampling or testing of packages or packaging components that led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection.

d. (1) The commissioner may assess a civil administrative penalty of not more than $7,500.00 for a first offense, not more than $10,000.00 for a second offense and not more than $25,000.00 for a third and every subsequent offense. Each day that a violation continues shall constitute an additional, separate, and distinct offense.

No assessment may be levied pursuant to this section until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or order violated, a concise statement of the facts

alleged to constitute a violation, a statement of the amount of the civil administrative penalties to be imposed, and a statement of the person's right to a hearing. The ordered person shall have 20 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing.

After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount the department determines appropriate.

(2) The commissioner may not assess a civil administrative penalty for a first offense for any violation of the provisions of this act, or of any rule or regulation adopted pursuant thereto, except in those instances where an ordered person violates an administrative order issued pursuant to subsection b. of section 10 of this act.

e. (1) A person who violates this act, or any rule or regulation adopted pursuant thereto, shall be liable for a penalty of not more than $7,500.00 per day, to be collected in a civil action commenced by the commissioner.

(2) The commissioner may not bring an action for a civil penalty for a first offense for any violation of the provisions of this act, or of any rule or regulation adopted pursuant thereto, except in those instances where an ordered person violates an administrative order issued pursuant to subsection b. of section 10 of this act.

A person who violates an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay an administrative assessment in full pursuant to subsection d. of this section is subject upon order of a court to a civil penalty not to exceed $50,000.00 per day of each violation.

Any penalty imposed pursuant to this subsection may be collected, with costs, in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and

the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

f. Assessments and penalties under this section shall be paid to the department and deposited into the "Toxic Packaging Reduction Fund" established pursuant to section 12 of this act.

g. Any person who purposely or knowingly:

(1) sells, offers for sale, or offers for promotional purposes any package or packaging component in violation of subsection a. of section 4 of this act, or of any rule or regulation adopted pursuant thereto;

(2) sells, offers for sale, or offers for promotional purposes any product in violation of subsection b. of section 4 of this act, or of any rule or regulation adopted pursuant thereto; or

(3) sells, offers for sale, or offers for promotional purposes any package or packaging component that exceeds the maximum contaminant levels set forth in subsection c. of section 4 of this act; shall, upon conviction, be guilty of a crime of the third degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not less than $7,500.00 for a first offense, not more than $10,000.00 for a second offense and not more than $25,000.00 for a third and every subsequent offense. Each day during which the violation continues constitutes an additional, separate and distinct offense.

h. The provisions of N.J.S.2C:1-6 to the contrary notwithstanding, a prosecution for a violation of the provisions of subsection g. of this section shall be commenced within five years of the date of discovery of the violation.

i. No retailer shall be deemed to have violated the provisions of section 4 of this act, if the commissioner finds that the retailer can demonstrate that, in the purchase of a specified package or packaging component, the retailer relied in good faith on the written assurance of the product manufacturer or distributor that the package or packaging component complied with the provisions of this act. The written assurance shall state that a specified package or packaging component is in compliance with the provisions of this act, and shall be signed by an authorized representative of the package manufacturer or distributor. If an exemption is claimed for the package or packaging component pursuant to subsection b. of section 5 of this act, the written assurance shall state the specific basis upon which the exemption is claimed.

C.13:1E-99.55 "Toxic Packaging Reduction Fund" created.

12. There is created in the Department of Environmental Protection and Energy a special nonlapsing fund to be known as the "Toxic Packaging Reduction Fund." The fund shall be adminis-

tered by the department and shall be the depository for all fees collected pursuant to section 7 of this act, and all assessments and penalties received pursuant to section 11 of this act, and any interest earned thereon. Unless otherwise specifically provided by law, monies in the fund shall be utilized exclusively by the department to administer and enforce the provisions of this act, or any rule or regulation adopted pursuant thereto.

C.13:1E-99.56 Review, report.

13. The department, in consultation with the Source Reduction Council of the Coalition of Northeastern Governors (CONEG), shall review the effectiveness of this act no later than 42 months after its effective date and shall provide to the Governor and the Legislature a written report based upon that review.

a. The report shall include:

(1) a recommendation whether to continue the exemptions provided in paragraphs (7), (8) and (9) of subsection a. of section 5 of this act; and

(2) a description of the nature of the substitute elements used in lieu of lead, cadmium, mercury or hexavalent chromium during the manufacturing or distribution of a package or packaging component.

b. The report may contain recommendations to include additional toxic substances contained in packages or packaging components on the list set forth in section 4 of this act in order to further reduce the toxicity of packaging waste.

Any recommendation to include an additional toxic substance on the list set forth in section 4 of this act shall include:

(1) a determination as to whether the continued use of the proposed substance presents or will present an unreasonable risk to health or the environment, which determination shall utilize a nationally recognized risk assessment protocol taking into account the magnitude and severity of the environmental harm against the benefits of the substance to product manufacturers and the general public;

(2) a determination as to the availability of a substitute element to be used in lieu of the proposed substance; and

(3) a description of other adverse effects which the addition of the proposed substance to the list set forth in section 4 of this act may have on product manufacturers or the general public.

C.13:1E-99.57 Request for copy of declaration of exemption, certificate of compliance.

14. A member of the public may request a package manufacturer, product manufacturer or distributor for a copy of the

declaration of exemption or certification of compliance for any specified package or packaging component. The request shall be made in writing with a copy thereof provided to the department. The package manufacturer, product manufacturer or distributor shall respond, in writing, within 60 days of receipt of the request and shall provide a copy of this response to the department.

C.13:1E-99.58 Rules, regulations.

15. The department shall adopt, pursuant to the provisions of the "Administrative Procedure Act," any rules or regulations necessary to implement the provisions of this act.

16. This act shall take effect immediately.

Approved January 20, 1992.

CHAPTER 521

AN ACT concerning the management of used dry cell batteries, and amending and supplementing P.L.1987, c.102.

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

C.13:1E-99.59 Short title.

1. Sections 1 through 23 of this act shall be known and may be cited as the "Dry Cell Battery Management Act."

C.13:1E-99.60 Findings, declarations.

2. The Legislature finds and declares that the presence of toxic metals in certain discarded dry cell batteries is a matter of great concern in light of their likely presence in emissions or residual ash when used batteries are incinerated at a resource recovery facility; that cadmium, lead and mercury, on the basis of available scientific and medical evidence, are of particular concern; that it is desirable as a first step in reducing the toxicity of waste materials in the solid waste streams directed to resource recovery facilities to eliminate the various sources of these toxic metals; and that the removal of used dry cell batteries containing high levels of cadmium, lead or mercury from the solid waste stream can have a significant beneficial impact on the quality of the emissions and residual ash

resulting from the incineration of solid waste at resource recovery facilities, and on groundwater quality in those regions of the State where solid waste is disposed at sanitary landfill facilities.

The Legislature further finds and declares that a Statewide toxic waste source reduction strategy must begin with fundamental changes in manufacturing practices and consumer disposal habits; that the manufacturers of products containing high levels of cadmium, lead and mercury that are discarded after serving their intended use must assume financial responsibility for their environmentally sound disposal; and that in particular, the dry cell battery industry must begin to bear a more equitable share of the environmental and social costs associated with manufacturing batteries which place a burden on the State's severely limited disposal options.

The Legislature further finds and declares that mercuric oxide batteries, nickel-cadmium and sealed lead rechargeable batteries are especially problematical and require separate management; that the most effective and appropriate method to promote toxic metal source reduction is to require manufacturers of all dry cell batteries to reduce the mercury concentration in their products to environmentally acceptable levels and to require manufacturers to accept the financial responsibility for the environmentally sound collection, transportation, recycling or proper disposal of used dry cell batteries; and that environmentally sound methods of managing used dry cell batteries include county recycling or household hazardous waste collection programs.

The Legislature therefore determines that it is in the public interest to remove all used mercuric oxide batteries, and all used nickel-cadmium or sealed lead rechargeable batteries from the solid waste stream, and to require the manufacturers of these dry cell batteries to assume the costs of, and accept the responsibility for, their environmentally sound collection, transportation, recycling or proper disposal; that all battery manufacturers shall be required to reduce the mercury concentration in their products to environmentally acceptable levels; that the manufacturers of consumer appliances containing nickel-cadmium or sealed lead rechargeable batteries shall be required to redesign their products so that these batteries are readily removable from the product; that retailers may be required to accept used rechargeable batteries from consumers if a manufacturer's battery management plan includes retail collection as an appropriate method to facilitate the environmentally sound recycling or proper disposal of these types of used dry cell batteries; by authorizing counties to include

the collection of used dry cell batteries within district recycling plans; and by requiring that counties include the collection of used dry cell batteries within existing district household hazardous waste collection programs.

C.13:1E-99.61 Definitions.

3. As used in sections 1 through 23 of this act:

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

"Consumer mercuric oxide battery" means any button or coin shaped mercuric oxide battery which is purchased at retail by a consumer for personal or household use;

"Department" means the Department of Environmental Protection;

"Distributor" means a person who sells dry cell batteries at wholesale to retailers in this State, including any manufacturer who engages in these sales, except that a "distributor" shall not include any wholesaler or distributor owned cooperatively by retailers;

"Dry cell battery" means any type of button, coin, cylindrical, rectangular or other shaped, enclosed device or sealed container consisting of a combination of two or more voltaic or galvanic cells, electrically connected to produce electric energy, composed of lead, lithium, manganese, mercury, mercuric oxide, silver oxide, cadmium, zinc, copper or other metals, or any combination thereof, and designed for commercial, industrial, medical, institutional or household use, including any alkaline manganese, lithium, mercuric oxide, silver oxide, zinc-air or zinc-carbon battery, nickel-cadmium rechargeable battery or sealed lead rechargeable battery;

"Institutional generator" means the owner or operator of any public or private, commercial or industrial establishment or facility, including any establishment owned or operated by, or on behalf of, a governmental agency, health care facility or hospital, licensed or other authorized hearing aid dispenser, research laboratory or facility, who routinely uses large quantities of mercuric oxide batteries or nickel-cadmium or sealed lead rechargeable batteries; or the owner or operator of any public or private facility identified by the department that generates at least 220 pounds of these types of used dry cell batteries per month, or the owner or operator of any public or private facility that accumulates 220 pounds of these types of used dry cell batteries at any time;

"Lithium battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of lithium and

other chemicals commonly used in pocket calculators, wrist watches and other electrical appliances;

"Manufacturer" means a person producing dry cell batteries for sale to institutional generators, distributors, retailers, small quantity generators or consumers;

"Mercuric oxide battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of zinc, potassium and mercury oxide which is designed or sold for commercial, industrial, medical or institutional use;

"Nickel-cadmium rechargeable battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery composed of cadmium and nickel which is designed for reuse and is capable of being recharged after repeated uses, and which has a useful life of at least 12 months;

"Rechargeable battery" means any nickel-cadmium rechargeable battery or sealed lead rechargeable battery;

"Rechargeable consumer product" means any product, including, but not limited to, a cordless electrical tool or appliance, containing a nickel-cadmium rechargeable battery or a sealed lead rechargeable battery, which is purchased at retail and commonly used for personal or household purposes;

"Retailer" means a person engaged in the sale of rechargeable batteries to any consumer at retail;

"Sealed lead rechargeable battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery composed of lead and other chemicals which is designed for reuse and is capable of being recharged after repeated uses, and which has a useful life of at least 12 months;

"Silver oxide battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of silver oxide, potassium hydroxide or sodium hydroxide and zinc, and mercury commonly used in wrist watches and other electrical appliances;

"Solid waste container" means a receptacle, container or bag suitable for the depositing of solid waste;

"Solid waste facilities" mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and

appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner;

"Small quantity generator" means the owner or operator of any public or private, commercial or industrial establishment or facility, including any establishment owned or operated by, or on behalf of, a governmental agency, health care facility or hospital, licensed or other authorized hearing aid dispenser, research laboratory or facility, who routinely uses small quantities of mercuric oxide batteries or nickel-cadmium or sealed lead rechargeable batteries; or the owner or operator of any public or private facility identified by the department that generates less than 220 pounds of these types of used dry cell batteries per month, or the owner or operator of any public or private facility that accumulates over 20 pounds but less than 220 pounds of these types of used dry cell batteries at any time;

"Zinc-air battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of zinc, potassium hydroxide and commonly used in hearing aids, photographic equipment and electrical appliances.

C.13:1E-99.62 Restricted sales of certain batteries.

4. a. No person shall sell, offer for sale, or offer for promotional purposes in this State any alkaline manganese battery which exceeds the following mercury concentration levels:

(1) For alkaline manganese batteries, other than button or coin shaped batteries, not more than 250 parts per million by weight (0.025%) for all batteries manufactured on or after January 1, 1992; and

(2) For button or coin shaped alkaline manganese batteries, not more than 25 milligrams of mercury per battery for all batteries manufactured on or after January 1, 1992.

b. No person shall sell, offer for sale, or offer for promotional purposes in this State any zinc-carbon battery which exceeds a mercury concentration level of one part per million by weight (0.0001%) for all batteries manufactured on or after January 1, 1992.

c. No person shall sell, offer for sale, or offer for promotional purposes in this State any alkaline manganese battery which exceeds a mercury concentration level of one part per million by weight (0.0001%) for all batteries manufactured on or after January 1, 1996.

C.13:1E-99.63 Restricted sale of consumer mercuric oxide battery.

5. a. No person shall sell, offer for sale, or offer for promotional purposes in this State any consumer mercuric oxide battery which exceeds a mercury concentration level of more than 250

parts per million by weight (0.025%) for all batteries manufactured on or after January 1, 1992.

b. Prior to January 1, 1994, the provisions of this section shall not apply to consumer mercuric oxide batteries being sold for use in hearing aids which require a consumer mercuric oxide battery to function properly and which are sold by hearing aid dispensers licensed pursuant to the provisions of P.L.1973, c.19 (C.45:9A-1 et seq.) or by other specialized hearing aid dispensers authorized by the commissioner to sell these batteries.

C.13:1E-99.64 Sale of rechargeable consumer products restricted, exemptions.

6. a. On or after July 1, 1993, no person shall sell, offer for sale, or offer for promotional purposes in this State any rechargeable consumer product unless:

(1) the rechargeable battery is readily removable from the product; or the rechargeable battery is contained in a battery pack which is separate from the product and the battery pack is readily removable from the product;

(2) the rechargeable consumer product, the package containing the product, or the rechargeable battery are labeled pursuant to the provisions of subsection b. of this section; and

(3) the instruction manual for the rechargeable consumer product includes information explaining methods to assure the proper disposal of used nickel-cadmium or sealed lead rechargeable batteries, as appropriate.

b. Every rechargeable consumer product, the package containing the product, or the rechargeable battery contained therein shall be labeled in a manner which is visible to consumers prior to purchase informing consumers that used rechargeable batteries may not enter the solid waste stream, and that these types of used dry cell batteries shall be collected, recycled or disposed of in an environmentally sound manner. The label shall contain one of the following statements, as appropriate, printed in capital letters:

"CONTAINS NICKEL-CADMIUM BATTERY. MUST BE DISPOSED OF PROPERLY"; or

"NICKEL-CADMIUM BATTERY. MUST BE DISPOSED OF PROPERLY."

"CONTAINS SEALED LEAD BATTERY. MUST BE DISPOSED OF PROPERLY"; or

"SEALED LEAD BATTERY. MUST BE DISPOSED OF PROPERLY."

c. Any person may, in accordance with rules or regulations adopted by the department pursuant to the "Administrative Procedure Act," apply for a temporary exemption from the requirements of paragraph (1) of subsection a. of this section for any rechargeable consumer product which was sold in this State at any time prior to the effective date of this act.

(1) Any person seeking a temporary exemption shall submit an application, in writing, to the department for its review and approval. The application shall include the following information:

(a) Documented evidence that the rechargeable consumer product for which the exemption is sought was sold in this State prior to the effective date of this act;

(b) A statement setting forth the specific basis upon which the exemption is sought;

(c) The full name, business address, telephone number and signature of the person seeking the exemption; and

(d) The full name, business address and telephone number of the authorized local representative of the person seeking the exemption.

(2) The information required pursuant to this subsection shall be furnished to the department for each specified rechargeable consumer product for which an exemption is sought.

(3) The department shall approve or deny a temporary exemption upon receipt of an application therefor. Any temporary exemption approved by the department shall be based on evidence furnished to the department that:

(a) The redesign of the rechargeable consumer product to comply with the requirements of paragraph (1) of subsection a. of this section would result in significant danger to public health and safety; and

(b) The rechargeable consumer product cannot reasonably be redesigned and manufactured to comply with the requirements of paragraph (1) of subsection a. of this section during the time period for which the temporary exemption would be issued or renewed.

(4) The temporary exemptions provided in this subsection may be issued or renewed by the department after July 1, 1993 for periods not to exceed 12 months, except that any renewal granted by the department shall be based on evidence furnished to the department that there is no feasible or practical alternative or substitute for the specified rechargeable consumer product.

d. The department may, in accordance with a fee schedule adopted as a rule or regulation pursuant to the provisions of the "Administrative Procedure Act," establish and charge reasonable fees for any of the services to be performed or rendered in connec-

tion with this section, and for the costs of compliance monitoring and administration. The fee schedule shall reasonably reflect the duration or complexity of the specific service performed or rendered, information reviewed, or inspection conducted.

C.13:1E-99.65 Sale of certain batteries dependent on battery management plan.

7. a. No person shall sell, offer for sale, or offer for promotional purposes in this State any mercuric oxide battery, or any nickel-cadmium or sealed lead rechargeable battery, unless the manufacturer thereof has obtained the prior written approval of the department of a plan for the collection, transportation, recycling or proper disposal of that used dry cell battery pursuant to the provisions of section 8 of this act.

Any two or more manufacturers may submit a joint plan to the department for any specified mercuric oxide battery or rechargeable battery that they manufacture.

b. Every manufacturer shall be liable, at his own expense, for the environmentally sound collection, transportation, recycling or proper disposal of every used mercuric oxide battery, or used nickel-cadmium or sealed lead rechargeable battery, as the case may be, produced by him and sold or offered for promotional purposes in this State.

c. Manufacturers may establish or utilize a trade association or a consortium comprised of members of the dry cell battery industry, as appropriate, in order to facilitate compliance with the requirements of this act.

C.13:1E-99.66 Submission of battery management plan.

8. a. (1) Within nine months of the effective date of this act, every manufacturer of mercuric oxide batteries, nickel-cadmium rechargeable batteries or sealed lead rechargeable batteries sold or offered for promotional purposes in this State shall prepare and submit a battery management plan, in writing, to the department for the environmentally sound collection, transportation, recycling or proper disposal of each specified used dry cell battery produced by that manufacturer.

(2) Prior to submission to the department of a battery management plan, every manufacturer of nickel-cadmium or sealed lead rechargeable batteries shall consult with distributors and retailers of the rechargeable batteries produced by that manufacturer. No battery management plan shall require a retail establishment where food or food products are sold or offered for sale directly to the consumer for consumption off the premises of the retail establishment to accept the return of used rechargeable batteries.

b. Each battery management plan submitted by a manufacturer shall include, as appropriate, but need not be limited to:

(1) Designation of the collector, transporter, processor or collection system to be utilized by the manufacturer, or by the county or municipality, institutional generator, retailer or small quantity generator on behalf of the manufacturer, for the collection, transportation, recycling or proper disposal of used mercuric oxide batteries or used rechargeable batteries in each county, including, as appropriate, evidence of contracts or agreements entered into therefor;

(2) Designation of the funding source or mechanism to be utilized by the manufacturer to defray the costs of implementing the battery management plan;

(3) A strategy for informing consumers, on any store display promoting the sale or use of the rechargeable batteries he manufactures, that these types of used dry cell batteries may not enter the solid waste stream, and that a convenient mechanism for the collection, transportation, recycling or proper disposal of used rechargeable batteries is available to the consumer;

(4) A Statewide consumer education program to assure the widespread dissemination of information concerning the environmental impact of the improper disposal of used mercuric oxide batteries or rechargeable batteries, and to inform consumers that manufacturers of these types of dry cell batteries are liable for their environmentally sound disposal; and

(5) A strategy for establishing and implementing, as the department deems necessary, an industry-wide uniform coding system for the identification and labeling of all mercuric oxide batteries or rechargeable batteries by brand name, electrode type, product type or shape; except that the commissioner may grant a waiver from this requirement based on evidence furnished to the department that it is not technologically feasible to label a specified dry cell battery.

The commissioner shall maintain on file in the department for public inspection copies of any uniform coding system implemented pursuant to this paragraph. The department shall provide a copy to any person upon request.

c. Any manufacturer seeking approval of a battery management plan for the environmentally sound collection, transportation, recycling or proper disposal of any specified used mercuric oxide battery, used nickel-cadmium or sealed lead rechargeable battery that he manufactures shall submit the plan to the department for its review and approval. Notice of any battery

management plan received by the department pursuant to this subsection shall be published in the New Jersey Register.

The commissioner shall maintain on file in the department for public inspection copies of any battery management plan received by the department pursuant to this subsection. The department shall provide a copy to any person upon request at a cost not to exceed the cost of reproduction.

(1) The department shall promptly review all plans submitted pursuant to this subsection. The department shall, within 30 days of receipt of a plan, request that the manufacturer submit additional information to assist in its review if it deems that such information is necessary. If no such request is made, the plan shall be construed to be completed. In the event that additional information is requested, the plan shall be construed to be completed when the additional information is received by the department.

(2) The department shall approve or deny a plan within 45 days of receipt of a completed plan. In the event that the department fails to take action on a plan within the 45-day period specified herein, then the plan shall be deemed to have been approved.

(3) The department shall review any battery management plan submitted by a manufacturer and approved pursuant to this subsection at least once every 24 months following its initial approval. If the department finds, in writing, that the plan is no longer a convenient or economically feasible method for the collection, transportation, recycling or proper disposal of these types of used dry cell batteries, the department may require the manufacturer to submit a new or revised plan for its review and approval; except that any previously approved plan shall remain in effect until such time as a new or revised plan is approved by the department.

d. Within 15 months of the effective date of this act and at least once every six months thereafter, every manufacturer of mercuric oxide batteries or rechargeable batteries shall submit a written report to the department on used dry cell battery return or recovery rates in accordance with rules and regulations adopted by the department therefor.

e. Manufacturers may establish an advisory council comprised of members of the dry cell battery industry, institutional generators, retailers, small quantity generators and county representatives in order to facilitate the collection, transportation, recycling or proper disposal of used mercuric oxide batteries or used rechargeable batteries in this State.

C.13:1E-99.67 Submission of dry cell battery collection plan.

9. a. Within nine months of the effective date of this act, every manufacturer of dry cell batteries sold or offered for promotional purposes in this State shall prepare and submit to the department, in writing, a dry cell battery collection plan to expand or increase the Statewide collection, recycling or proper disposal of all used dry cell batteries produced by that manufacturer.

b. Each dry cell battery collection plan submitted by a manufacturer shall include, but need not be limited to:

(1) A strategy for expanding and increasing the collection, recycling or proper disposal of all used dry cell batteries in each county, including, but not limited to, those alkaline manganese, consumer mercuric oxide or zinc-carbon batteries manufactured prior to the effective date of this act; and

(2) A strategy for establishing and implementing, as the department deems necessary, an industry-wide uniform coding system for the identification and labeling of all dry cell batteries by brand name, electrode type, product type or shape; except that the commissioner may grant a waiver from this requirement based on evidence furnished to the department that it is not technologically feasible to label a specified dry cell battery.

The commissioner shall maintain on file in the department for public inspection copies of any uniform coding system implemented pursuant to this paragraph. The department shall provide a copy to any person upon request.

c. Within 15 months of the effective date of this act and at least once every six months thereafter, every manufacturer of dry cell batteries shall submit a written report to the department on used dry cell battery return or recovery rates in accordance with rules and regulations adopted by the department therefor.

C.13:1E-99.68 Disposal of mercuric oxide batteries as solid waste, prohibited.

10. a. No person shall knowingly dispose of used mercuric oxide batteries as solid waste at any time.

b. Any person seeking to dispose of used mercuric oxide batteries may:

(1) transport these types of used dry cell batteries to a household hazardous waste collection site established pursuant to a county household hazardous waste collection program;

(2) place these types of used dry cell batteries for collection in the manner provided by the municipal recycling ordinance in instances where the adopted district recycling plan as approved by

the department pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) requires the collection and disposition of used dry cell batteries as a designated source separated recyclable material; or

(3) collect, transport, recycle or dispose of these types of used dry cell batteries as otherwise provided by the battery management plan required pursuant to section 8 of this act.

C.13:1E-99.69 Disposal of used nickel-cadmium rechargeable batteries as solid waste, prohibited.

11. a. No person shall knowingly dispose of used nickel-cadmium rechargeable batteries or used sealed lead rechargeable batteries as solid waste at any time.

b. Any person seeking to dispose of used nickel-cadmium or sealed lead rechargeable batteries derived from household use may:

(1) return these types of used dry cell batteries to a retailer unless otherwise provided by the battery management plan required pursuant to section 8 of this act;

(2) transport these types of used dry cell batteries to a household hazardous waste collection site established pursuant to a county household hazardous waste collection program;

(3) place these types of used dry cell batteries for collection in the manner provided by the municipal recycling ordinance in instances where the adopted district recycling plan as approved by the department pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) requires the collection and disposition of used dry cell batteries as a designated source separated recyclable material; or

(4) collect, transport, recycle or dispose of these types of used dry cell batteries as otherwise provided by the battery management plan required pursuant to section 8 of this act.

C.13:1E-99.70 Solid waste collector not to collect certain used batteries.

12. a. No solid waste collector registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) shall, at any time, knowingly collect used mercuric oxide batteries, used nickel-cadmium rechargeable batteries or used sealed lead rechargeable batteries placed for collection and disposal as solid waste.

b. A solid waste collector may refuse to collect the contents of a solid waste container containing a visible quantity of used mercuric oxide batteries or used rechargeable batteries.

C.13:1E-99.71 Solid waste facility not to accept certain used batteries for disposal.

13. a. No solid waste facility in this State shall knowingly accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of used mercuric oxide batter-

ies, used nickel-cadmium rechargeable batteries or used sealed lead rechargeable batteries at any time.

b. The owner or operator of a solid waste facility may refuse to accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of used mercuric oxide batteries or used rechargeable batteries.

C.13:1E-99.72 Retailers, distributors, manufacturers to accept used batteries.

14. a. Except as otherwise provided in a battery management plan approved by the department pursuant to the provisions of section 8 of this act, every retailer shall:

(1) Accept from customers at any time during business hours up to three used nickel-cadmium rechargeable batteries or sealed lead rechargeable batteries derived from household use, of the type and size he sells or offers for sale;

(2) Conspicuously post and maintain, at or near the point of display, a legible sign, not less than 8 1/2 inches by 11 inches in size, informing customers that used rechargeable batteries of the type and size sold or offered for sale by the retailer may not enter the solid waste stream, and that the retail establishment is a collection site for the recycling or proper disposal of these types of used dry cell batteries. The sign shall contain the following inscription:

"It is illegal to dispose of used nickel-cadmium or sealed lead rechargeable batteries in this State as solid waste"; and

"State law requires us to accept used nickel-cadmium or sealed lead rechargeable batteries for return to the manufacturer"; and

(3) Conspicuously provide or maintain, at a convenient location within the retail establishment, collection boxes or other suitable receptacles into which customers may deposit used nickel-cadmium or sealed lead rechargeable batteries accepted by the retailer.

b. Except as otherwise provided in a battery management plan approved by the department pursuant to the provisions of section 8 of this act, a distributor or his agent shall accept the return of all used nickel-cadmium or sealed lead rechargeable batteries he distributes in his service area from a retailer.

c. Every manufacturer, at his own expense, shall accept the return of all used nickel-cadmium or sealed lead rechargeable batteries he manufactures from distributors or retailers as provided in a battery management plan approved by the department pursuant to the provisions of section 8 of this act. A manufacturer shall, upon return of a used dry cell battery, provide for its proper disposal or recycling.

d. The provisions of this section shall not apply to any retail establishment where food or food products are sold or offered for sale directly to the consumer for consumption off the premises of the retail establishment.

C.13:1E-99.73 Institutional generator to provide for disposal of certain batteries.

15. a. Every institutional generator shall provide for the onsite source separation, collection and disposal of all used mercuric oxide batteries, nickel-cadmium rechargeable batteries and sealed lead rechargeable batteries generated at the facility.

b. Every small quantity generator shall provide for the onsite source separation, collection and disposal of all used mercuric oxide batteries, nickel-cadmium rechargeable batteries and sealed lead rechargeable batteries generated at the facility.

c. Except as otherwise provided in rules or regulations adopted by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), or as otherwise prescribed under any other applicable federal or State law, every institutional or small quantity generator shall source-separate used mercuric oxide batteries, nickel-cadmium rechargeable batteries and sealed lead rechargeable batteries for collection and disposal in the manner provided in the battery management plan required pursuant to section 8 of this act.

C.13:1E-99.74 Adoption of district household hazardous waste management plan.

16. Whenever a county prepares and adopts a district household hazardous waste management plan, the commissioner may require the plan to be adopted as an amendment to the district solid waste management plan required pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), and shall be subject to approval by the department.

a. Each district household hazardous waste management plan, subject to approval by the department, shall identify the county strategy or strategies for the collection and disposal of household hazardous waste, which shall, at a minimum:

(1) provide for the collection and disposal of used mercuric oxide batteries, nickel-cadmium rechargeable batteries and sealed lead rechargeable batteries at least once every 90 days;

(2) be consistent with the provisions of the district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);

(3) designate, if necessary, one or more collection sites within the county for household hazardous waste collection and disposal; and

(4) include such other information as may be prescribed in rules or regulations of the department.

b. A district household hazardous waste management plan, subject to approval by the department, may provide for the collection and disposal of any used dry cell batteries.

c. Household hazardous waste shall be collected, stored and transported in accordance with all applicable standards for such wastes adopted as rules or regulations by the department pursuant to P.L.1970, c.39, or as prescribed under any other applicable federal or State law.

d. The department may use a portion of the moneys available in the State Recycling Fund pursuant to paragraph (2) of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for the purposes of providing technical assistance and training to counties in proper used dry cell battery management.

C.13:1E-99.75 Implementation of countywide used dry cell battery source separation and collection program.

17. a. The provisions of P.L.1970, c.39 (C.13:1E-1 et seq.) or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, the department, as a condition of any permit or approval required pursuant to P.L.1970, c.39, may require the owner or operator of any resource recovery facility, in conjunction with the governing body of the county wherein the resource recovery facility is located, to implement a countywide used dry cell battery source separation and collection program, which program shall be subject to approval by the department, to ensure that any used dry cell batteries found to be of particular concern are removed from the solid waste stream prior to acceptance for disposal at the resource recovery facility.

b. As used in this section, "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.

C.13:1E-99.76 Order issued by commissioner to manufacturers.

18. a. In the event that the commissioner makes a finding, in writing, that the continued disposal of a specified used dry cell battery, including, but not limited to, any used lithium battery, silver oxide battery, zinc-air battery, alkaline manganese battery or zinc-carbon battery as solid waste presents a threat to the environment or public health and safety, the commissioner may issue an order to every manufacturer of the specified dry cell battery, which order shall include:

(1) The specific type of used dry cell battery which presents a threat to the environment or public health and safety;

(2) A description of the specific threats to the environment or public health and safety which the specified type of used dry cell battery presents;

(3) The specific measures which manufacturers of the specified dry cell battery are directed to undertake immediately to abate or eliminate any threat to the environment or public health and safety; and

(4) The actions which the department will take upon the signing of the order, or at any time thereafter, which may include, but need not be limited to:

(a) requiring every manufacturer to prepare and submit a battery management plan for the environmentally sound collection, transportation, recycling or proper disposal of that used dry cell battery pursuant to the provisions of section 8 of this act;

(b) requiring the suspension of the sale or distribution of that dry cell battery in this State unless the manufacturer prepares and submits a battery management plan that is approved by the department pursuant to the provisions of this section; or

(c) requiring every manufacturer to reduce the cadmium, lead or mercury concentration levels in the dry cell battery to environmentally acceptable and technologically feasible levels as a condition of sale or distribution of that dry cell battery in this State.

b. (1) Any manufacturer required to prepare and submit a battery management plan pursuant to this section shall submit the plan to the department for its review and approval within 12 months of the effective date of the order.

(2) The department is authorized to impose and enforce an indefinite suspension of the sale or distribution in this State of the dry cell battery specified in the order if the manufacturer thereof fails to submit a plan pursuant to the provisions of this subsection.

c. An order issued pursuant to this section shall take effect upon the signing of the order by the commissioner, and the person to whom the order is directed shall comply with the order immediately upon receipt thereof.

d. Any action brought by a person seeking a temporary or permanent stay of an order issued pursuant to this section shall be brought in the Superior Court. Any person bringing such an action shall have the burden of demonstrating, by clear and convincing evidence, that the dry cell battery specified in the order as presenting a threat to the environment or public health and

safety does not present a threat to the environment or public health and safety.

C.13:1E-99.77 Addressing consumer complaints, establishment of public education program, determination of compliance.

19. a. The commissioner shall establish a means of addressing consumer complaints and a public education program to assure the widespread dissemination of information concerning the purpose of this act.

b. The department shall have the right to enter, at any time during normal business hours and upon presentation of appropriate credentials, any retail establishment at which consumer mercuric oxide batteries, nickel-cadmium rechargeable batteries or sealed lead rechargeable batteries are sold or offered for promotional purposes in order to determine compliance with the provisions of this act.

C.13:1E-99.78 Violations, penalties.

20. a. Any person convicted of a violation of this act shall be subject to a penalty of not less than $500.00 nor more than $1,000.00 for each offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law," (N.J.S.2A:58-1 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense.

b. The department may institute a civil action for injunctive relief to enforce this act and to prohibit and prevent a violation of this act, and the court may proceed in the action in a summary manner.

C.13:1E-99.79 Rules, regulations.

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

C.13:1E-99.80 Report by commissioner to the Legislature.

22. a. The commissioner shall prepare a report to the Legislature concerning the implementation of this act, including recommendations as to whether the collection, transportation, recycling or disposal methods prescribed in this act are the most appropriate means to ensure the environmentally sound collection, transportation, recycling or proper disposal of used dry cell

batteries. The report shall be transmitted to the Legislature not later than two years following the effective date of this act.

b. The report shall include, but need not be limited to, recommendations concerning:

(1) A requirement that manufacturers further reduce the cadmium, lead or mercury concentration levels in dry cell batteries:

(a) For alkaline manganese dry cell batteries, except for button or coin shaped batteries, not more than one part per million by weight (0.0001%); and

(b) For button or coin shaped alkaline manganese dry cell batteries, not more than five milligrams of mercury per battery;

(2) The practicability and feasibility of providing for the collection of used dry cell batteries by requiring a deposit on, and establishing a refund value for, any dry cell battery sold or offered for promotional purposes in this State; and

(3) The practicability and feasibility of ensuring the proper disposal of used dry cell batteries by imposing a pre-disposal surcharge on the sale of dry cell batteries.

C.13:1E-99.81 Collector, transporter exemptions.

23. No collector or transporter utilized by a manufacturer for the collection of used dry cell batteries who is not otherwise required to file a disclosure statement with the Attorney General and the department shall be subject to the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.).

24. 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; and

(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; and

(b) The recycling of at least 25% of the total municipal solid waste stream by December 31, 1990.

For the purposes of this paragraph, "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.

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.

25. This act shall take effect immediately, except that sections 7, 10, 11, 12, and 13 shall take effect one year after enactment.

Approved January 20, 1992.

CHAPTER 522

AN ACT appropriating $114,946,000 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and certain other Green Acres bond acts, and authorizing the use of unexpended balances, interest earnings, and loan repayments from certain Green Acres bond acts to enable the State and local government units to acquire and develop lands for recreation and conservation purposes, and to enable qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection and Energy from the "1989 New Jersey Green Acres Fund," established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $44,458,000 for the purposes of public acquisition and development of lands by the State for recreation and conservation purposes, and to provide grants to assist qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated as follows:

(1) For State acquisition of the following projects, $29,500,000:

Project	County	Estimated Cost
Cape May Island	Cape May	$3,175,000
Colliers Mills WMA	Ocean	$100,000
D & R Canal Greenway	Mercer	$2,000,000
Dix WMA	Cumberland	$500,000
Historic Resources	Statewide	$1,600,000
Jenny Jump SF Additions	Warren	$200,000
Kuser Mountain	Mercer	$1,500,000
Natural Areas	Statewide	$2,575,000
Nonprofit Camps	Statewide	$3,000,000
Parvin State Park	Salem	$150,000
Pequest River Greenway	Warren	$1,150,000
Salem River/Mannington Mdws.	Salem	$3,950,000
Skylands Greenway	Bergen/Morris/ Passaic/Sussex	$3,000,000
Water Access Sites	Statewide	$2,100,000
Contingency/Opportunity	Statewide	$4,400,000
Technical Services	Statewide	$100,000

(2) For the State development of the following projects, $4,958,000:

Project	County	Estimated Cost
Allaire Bakery	Monmouth	$214,000
Batsto Buildings	Burlington	$520,000
Dam Repairs	Statewide	$392,000
Demolition of Unused Structures	Statewide	$133,000
Double Trouble Packing Shed	Ocean	$310,000
Fort Mott Fortifications	Salem	$400,000
Health and Safety Projects	Statewide	$750,000
High Point Bathhouse	Sussex	$1,000,000
Long Pond Ironworks Country Store	Passaic	$270,000
Monmouth Battlefield Craig House	Monmouth	$225,000
Road Improvements	Statewide	$250,000
Steuben House	Bergen	$64,000
Wawayanda High Breeze Farm	Sussex	$300,000
Whitesbog Village	Burlington	$130,000

(3) For qualifying tax exempt nonprofit organizations for the following projects, $10,000,000:

Nonprofit Organization	County	Project	Approved Amount
So. Jersey Land Trust	Atlantic	Sunshine Park	$500,000
The Nature Conservancy	Cape May	Cape May Bird Refuge	$182,000
Natural Lands Trust	Cumberland	Bear Swmp/Maurice Rvr.Rfg.	$500,000
Trust for Public Land	Essex	Hayes Street Park	$200,000
Trust for Public Land	Gloucester	Big Timber Crk. Nat. Area	$210,000
Citizens for Parkland	Hunterdon	Quest House	$103,000
NJ Conservation Fnd.	Hunterdon	Wickecheoke Creek	$500,000
Hunt. Heritage Conserv.	Hunterdon	Mine Brook Farm	$500,000
Hunt. Heritage Conserv.	Hunterdon	Sutton Park	$49,000
NJ Audubon Society	Hunterdon	Toothwort Woods	$500,000
Camp Dill Foundation	Hunterdon	Camp Dill Land Addition	$51,000
Frnds. of Princ. Open Spc.	Mercer	White Farm	$500,000
Del. & Raritan Grnwy. Inc.	Mercer	Pennington Trail	$5,000
Law. Twp. Conserv. Fnd.	Mercer	Shipetauken Woods	$425,000
Frnds. of Hopewell Vly. Open Space	Mercer	Kuser Mountain	$500,000
Del. & Raritan Grnwy. Inc.	Mercer	Inst. for Advanced Study	$500,000
Monmouth Conserv. Fnd.	Monmouth	Elton Corner	$500,000
POWWW (Protect our Wetlands, Water and Woods)	Morris	Jersey City Watershed	$500,000
Upper Rockaway Rvr. Watershed Assoc.	Morris	Buck Mountain	$500,000

Nonprofit Organization	County	Project	Approved Amount
Izaak Walton League of America	Ocean	Murray Grove	$500,000
NJ Conserv. Fnd.	Passaic	High Mountain	$500,000
Nanticoke Lenni-Lenape Indians	Salem	Jo-Vin Farms	$500,000
The Nature Conserv.	Salem	Salem River Meadows	$200,000
Del. & Raritan Cnl. Watch	Somerset	Wilson/Canal Road	$400,000
NJ Conserv. Fnd.	Somerset	Pillar of Fire	$500,000
Phillipsburg Rvrvw. Org.	Warren	Riverview Park	$175,000
Easter Seal	Warren	Camp Merry Heart	$500,000

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

c. There is appropriated to the Department of Environmental Protection and Energy the unexpended balances of the amounts appropriated pursuant to P.L.1991, c.13, from the "1989 New Jersey Green Acres Fund" established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the projects listed in this section for public acquisition and development of lands by the State for recreation and conservation purposes and for the purpose of administrative costs associated with any such projects, to the extent such funds are available as a result of project cancellations or cost savings.

d. There is appropriated to the Department of Environmental Protection and Energy such sums as may be or become available on or before June 30, 1992, due to interest earnings in the "1989 New Jersey Green Acres Fund" established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the projects listed in this section for public acquisition and development of lands by the State for recreation and conservation purposes and for the purpose of administrative costs associated with any such projects.

2. a. There is appropriated to the Department of Environmental Protection and Energy from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of $40,149,000 to provide loans and grants to assist local government units to acquire lands for recreation and conservation purposes, which sum shall include

administrative costs. The following acquisition projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Atlantic County	Atlantic	Daniel EstelManor Acq.	$525,000
Alpine Boro	Bergen	Boy Scout Camp Acq.	$1,500,000
Bergen County	Bergen	Borg's Woods Acq.	$1,500,000
Burlington County	Burlington	Rancocas Greenway Acq.	$3,000,000
Moorestown Township	Burlington	Stokes Hill Acq.	$500,000
Haddon Township	Camden	MacArthur Tract Acq.	$800,000
Cape May City	Cape May	Cape May Conserv. Area Acq.	$3,000,000
West Orange Township	Essex	Kean Estate Acq.	$3,000,000
Gloucester County	Gloucester	Pitman Golf Course Acq.	$4,000,000
West Deptford Township	Gloucester	Tenneco Acq.	$1,298,000
Logan Township	Gloucester	Raccoon Creek Conser. Acq.	$297,000
Mantua Township	Gloucester	Chestnut-LinearPk. II Acq.	$180,000
Hunterdon County	Hunterdon	Hunterdon Open Space Acq.	$2,000,000
East Amwell Township	Hunterdon	Meadowberry Farm Acq.	$840,000
Hopewell Township	Mercer	Kuser Mountain Acq.	$1,000,000
Mercer County	Mercer	Kuser Mountain Acq.	$3,900,000
Mercer County	Mercer	Old Mill Rd.Greenway Acq.	$100,000
No. Brunswick Township	Middlesex	Farrington Lake Add. Acq.	$3,000,000
Cranbury Township	Middlesex	West Property Acq.	$206,000
Morris County	Morris	Old Troy Park Add. Acq.	$1,700,000
Kinnelon Boro	Morris	Pyramid Mountain Acq.	$1,500,000
Rockaway Township	Morris	Beaver Brook Tract Acq.	$1,500,000
Brick Township	Ocean	Conservation Area Ph. 2 Acq.	$1,303,000
Dover Township	Ocean	Bayshore Acq.	$1,500,000
Montgomery Township	Somerset	Montgomery Open Space Acq.	$2,000,000

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, section 3 of this act, section 4 of this act, and section 5 of this act shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protec-

tion and Energy, and shall require the approval of the Joint Budget Oversight Committee or its successor.

3. a. There is appropriated to the Department of Environmental Protection and Energy from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of $13,457,000 to provide loans to assist local government units to acquire lands for recreation and conservation purposes, which sum shall include administrative costs. The following acquisition projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Hamilton Township	Atlantic	Liepe Farm Acq.	$372,000
Haworth Boro	Bergen	Watershed Acq.	$1,500,000
Bergen County	Bergen	Hackensack Rvr.Path 2 Acq.	$1,000,000
Voorhees Township	Camden	Lions Lake Add. Acq.	$450,000
Hunterdon County	Hunterdon	Kuster Farm Acq.	$2,000,000
Union Township	Hunterdon	Union Twp. Rec.Area Acq.	$1,500,000
Flemington Boro	Hunterdon	Flemington Trailhead Acq.	$10,000
Lawrence Township	Mercer	Klevan's Property Acq.	$500,000
East Brunswick Twp.	Middlesex	Sports Complex Acq.	$1,500,000
Woodbridge Township	Middlesex	River Park Additions Acq.	$100,000
Aberdeen Township	Monmouth	Freneau Park Acq.	$800,000
Parsippany - Troy Hills Township	Morris	Smith Tract/Katy Est. Acq.	$1,500,000
Mendham Township	Morris	Tempe Wick Reserve Acq.	$1,125,000
Mendham Boro	Morris	Cosma Field Acq.	$1,000,000
Raritan Boro	Somerset	Basilone Mem.Pk. Acq.	$100,000

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, section 2 of this act, section 4 of this act, and section 5 of this act shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protec-

tion and Energy, and shall require the approval of the Joint Budget Oversight Committee or its successor.

4. a. There is appropriated to the Department of Environmental Protection and Energy from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of $5,856,000 to provide loans to assist local government units to develop lands for recreation and conservation purposes, which sum shall include administrative costs. The following development projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Margate City	Atlantic	Pub. Lib. Pk.Ph. II Dev.	$150,000
Egg Harbor Township	Atlantic	Pine Oak Pk. Dev.	$150,000
Linwood City	Atlantic	Linwood Bike Path Dev.	$148,500
Bergenfield Boro	Bergen	Cooper's Pond Dev.	$250,000
Ridgefield Park Village	Bergen	Veterans Park Dev.	$250,000
Teaneck Township	Bergen	Pomander Walk Pk. Dev.	$250,000
Burlington City	Burlington	Riverfront Prom. Dev.	$143,000
Camden County	Camden	Challenge Grove Dev.	$500,000
Montclair Township	Essex	Essex Park Pool Dev.	$250,000
West Caldwell Township	Essex	Richard Pk. II Dev.	$150,000
Washington Township	Mercer	Tantum Pk., Phase II Dev.	$250,000
Old Bridge Township	Middlesex	Geick Pk. Ph. II Dev.	$250,000
Plainsboro Township	Middlesex	Schalk's Meadow Dev.	$250,000
South Amboy City	Middlesex	Waterfront Dev.	$250,000
Atlantic Highlands Boro	Monmouth	Bayshore Trail Dev.	$150,000
Belmar Boro	Monmouth	Lake Como and Silver Lake Dev.	$150,000
Colts Neck Township	Monmouth	Laird Rd. Rec. Area Dev.	$89,000
Eatontown Boro	Monmouth	80 Acre Park Dev.	$150,000
Little Silver Boro	Monmouth	Sickles Farm Pk. Dev.	$150,000
Middletown Township	Monmouth	Stevenson Tract Ph. 1 Dev.	$200,000
Barnegat Light Boro	Ocean	Waterfront Park Dev.	$250,000
Beach Haven Boro	Ocean	Taylor Ave. Waterfront Dev.	$235,500
Long Beach Township	Ocean	Bayview Park Dev. 2	$90,000
Seaside Park Boro	Ocean	5th Avenue Pier Dev.	$250,000
South Toms River Boro	Ocean	Cedar Point Dev.	$150,000

Local Government Unit	County	Project	Approved Amount
Frankford Township	Sussex	Frankford Rec.Fac. Dev.	$150,000
Fredon Township	Sussex	Lodestar Park Dev.	$150,000
Linden City	Union	Mather Spring Ballflds. Dev.	$150,000
Knowlton Township	Warren	Knowlton Pk. Dev. Ph. 1	$150,000
Pohatcong Township	Warren	Pohatcong Park Dev. 2	$150,000

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, section 2 of this act, section 3 of this act, and section 5 of this act shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection and Energy, and shall require the approval of the Joint Budget Oversight Committee or its successor.

5. a. There is appropriated to the Department of Environmental Protection and Energy from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of $11,026,000 to provide loans and grants to assist local government units to acquire and develop lands for recreation and conservation purposes, which sum shall include administrative costs. The following acquisition and development projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Camden City	Camden	South Camden Pk. Dev.	$237,500
Camden City	Camden	Commonplace Pk. Dev.	$75,000
Gloucester City	Camden	Martins Lake Pk. Dev.	$70,000
Bridgeton City	Cumberland	Cohanzick Zoo Dev.	$250,000
Bloomfield Township	Essex	Foley Fld./ Mid. Sch. Dev.	$626,500
East Orange City	Essex	Plaza Village Dev.	$248,500
Irvington Township	Essex	Orange Pk. Exp. Dev.	$651,500
Woodbury City	Gloucester	Woodbury Creek Pk. Dev.	$110,000
Jersey City	Hudson	Summit & Cornelison Pk.Dev.	$60,500
Hudson County	Hudson	Bayonne Pk.Renov. Dev.	$1,550,000
Hudson County	Hudson	Appletree House Acq.	$960,000

Local Government Unit	County	Project	Approved Amount
Weehawken Township	Hudson	Louisa Park Dev.	$250,000
Trenton City	Mercer	Mercer Cem., Ph. II Dev.	$250,000
Trenton City	Mercer	Trenton Riverfront Dev.	$236,000
New Brunswick City	Middlesex	Raritan Rvr. Conserv. Acq.	$1,200,000
Long Branch City	Monmouth	Jackson Woods Acq.	$1,450,500
Neptune Township	Monmouth	Stout Farm Acq.	$500,000
Elizabeth City	Union	Waterfront Pk. Dev.	$1,500,000
Elizabeth City	Union	Ballfield Acq.	$800,000

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, section 2 of this act, section 3 of this act, and section 4 of this act that involve local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection and Energy, and shall require the approval of the Joint Budget Oversight Committee or its successor.

6. a. There is appropriated to the Department of Environmental Protection and Energy the unexpended balances of the amounts appropriated pursuant to P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, and P.L.1991, c.16 from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and from the "1989 New Jersey Green Trust Fund" created pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the purpose of making loans and grants to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, section 2 of this act, section 3 of this act, section 4 of this act, and section 5 of this act, and for the purpose of administrative costs associated with any such projects, to the extent such funds are available as a result of project withdrawals or cost savings.

b. There is appropriated to the Department of Environmental Protection and Energy such sums as may be or become available on or before June 30, 1992, due to interest earnings or loan repayments, in the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and in the "1989 New Jersey Green Trust Fund" created pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the purpose of making loans and grants to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, section 2 of this act, section 3 of this act, section 4 of this act, and section 5 of this act, and for the purpose of administrative costs associated with any such projects.

7. Any transfer of any funds or project sponsor listed in section 2 of this act, section 3 of this act, section 4 of this act, or section 5 of this act shall require the approval of the Joint Budget Oversight Committee or its successor.

8. Pursuant to the provisions of subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

9. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1983, c.354, P.L.1987, c.265, and P.L.1989, c.183, as appropriate.

10. This act shall take effect immediately.

Approved January 20, 1992.

CHAPTER 523

AN ACT concerning family development, supplementing Title 44 of the Revised Statutes and amending P.L.1947, c.156, P.L.1987, c.282 and P.L.1987, c.283.

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

C.44:10-19 Short title.

1. This act shall be known and may be cited as the "Family Development Act."

C.44:10-20 Findings, declarations.

2. The Legislature finds and declares that within New Jersey, there are counties and municipalities which are experiencing high unemployment and underemployment among their populations, and that these are conditions which contribute to the overall economic decline of the State and generally threaten the public health, safety, morals and welfare; that the population within each of these counties and municipalities consists of a disproportionate number of economically disadvantaged and unskilled individuals who face crippling barriers to employment and who are in need of special training in order to become members of the productive work force; that the REACH program established pursuant to P.L.1987, c.282 (C.44:10-9 et seq.) has not and cannot, as it is currently operating, provide the variety or intensity of services to address the many and deep-rooted needs of the populations of these counties and municipalities; and that the obstacles to economic achievement and permanent escape from the bonds of welfare dependency for these people can only be overcome through a new initiative which offers intensified and coordinated services that go beyond the parameters of the REACH program and address the educational, vocational and other needs of the public assistance recipient's family, rather than the recipient alone, including financial and other assistance to enhance access to higher educational opportunities for these persons through both four-year and community colleges, as well as postsecondary vocational training programs.

C.44:10-21 Definitions.

3. As used in this act:

"Benefits" means benefits received under the program of aid to families with dependent children established pursuant to P.L.1959, c.86 (C.44:10-1 et seq.).

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Program" means the "Family Development Initiative" established pursuant to this act.

"Recipient" means a adult recipient of benefits under the program of aid to families with dependent children.

C.44:10-22 Family Development Initiative established.

4. a. The Family Development Initiative is established in the Division of Economic Assistance of the Department of Human Services as the JOBS program for New Jersey in accordance with the requirements of the federal job opportunities and basic skills training program established pursuant to the federal "Family Support Act of 1988," Pub.L.100-485. The objective of the Family Development Initiative is to enable recipients of aid to families with dependent children to secure permanent full-time unsubsidized jobs, preferably in the private sector, with wages and benefits that are adequate to support their families, and to ensure that these individuals and their family members obtain the necessary educational skills and vocational training, including higher education through both four-year and community colleges, as appropriate, to secure these kinds of jobs, in addition to other health-related, social, educational and vocational services that may be necessary to assist the family.

The commissioner shall initially establish the program in the three counties which have the largest numbers of recipients, during the first year of the operation of the program. During the two succeeding years, the commissioner shall phase in the program in the remaining counties Statewide. As the program is implemented in each county, the fiscal and personnel resources of State, county and municipal government agencies which are being utilized by the REACH program established pursuant to P.L.1987, c.282 (C.44:10-9 et seq.) shall be transferred to the program, and the REACH program shall be terminated in that county.

b. During the first year of the operation of the program, the commissioner shall also establish a demonstration project to provide the same services to recipients of general public assistance in accordance with the provisions of section 8 of P.L.1947, c.156 (C.44:8-114) in a city of the second class in a county of the second class which houses the State capitol.

C.44:10-23 Recipients to participate in program.

5. a. A recipient whose youngest child is two years of age or older shall participate in education, vocational assessment and

training, or employment activities, or a combination thereof, under the program.

b. A recipient whose youngest child is less than two years of age shall participate in counseling and vocational assessment activities and the development of a family plan pursuant to section 7 of this act, and may voluntarily participate in education, vocational training or employment activities, or a combination thereof, under the program.

c. The commissioner may exempt a recipient or member of the recipient's family from participating in the program for reasons of physical or mental impairment, age, illness or injury, caretaker responsibilities, employment or unsuitability, as determined by the commissioner, for the services provided by the program.

C.44:10-24 Reduction in benefits for non-participation.

6. A recipient who without good cause fails or refuses to enroll and actively participate in the program, which includes failure to attend or make a good faith effort to achieve satisfactory academic progress in educational or vocational training classes under the program, including classes in four-year and community colleges, according to rules and regulations adopted by the commissioner, in consultation with the Commissioner of Education and the Chancellor of Higher Education, shall thereupon, as determined by the commissioner, be subject to a reduction in benefits of at least 20%, or shall become ineligible for benefits for a period of at least 90 days. The period of ineligibility shall commence at the end of the current benefit period, and at the end of the period the recipient shall again become eligible for benefits, if the recipient complies with all requirements of the program as determined by the commissioner or shows a willingness to do so. For a subsequent failure or refusal to enroll and actively participate in the program without good cause, the recipient may be subject to a termination of benefits.

C.44:10-25 Provision of services to participant.

7. a. Services shall be provided to each participant in the program according to a family plan which includes a written contract. The contract shall be written in English or Spanish, according to the participant's needs. The contract shall be signed by the participant and a program representative who shall act as a case manager, advocate and broker of services for the participant and the participant's family, and shall set forth the specific mutual obligations of the participant and the program and a

detailed plan for the participant and the participant's family. The family plan and contract, which shall explicitly state the services that the program will provide to the participant, shall be reviewed by both the participant and the program representative at least once a year and may be revised from time to time according to the needs of the participant, the participant's family and the program.

b. The services to be provided under the program shall include, but not be limited to: job development and placement in full-time permanent jobs, preferably in the private sector; counseling and vocational assessment; intensive remedial education, including instruction in English-as-a-second language; financial and other assistance for higher education, including four-year and community colleges, and for postsecondary vocational training programs; job search assistance; community work experience; employment skills training focused on a specific job; and on-the-job training in an employment setting.

c. The program shall be designed to ensure that each participant and member of the participant's family, as age appropriate, has attained the equivalent of a high school degree, before assigning that person to a vocational-related activity under the program. The commissioner may exempt a participant or member of the participant's family from this requirement if the commissioner determines that: based upon an assessment of the person's ability and aptitude, the person lacks a reasonable prospect of being able to successfully complete the academic requirements of a high school or equivalency program of study, in which case the commissioner shall refer the person to an alternative educational program as appropriate; or the person is gainfully employed or engaged in a job search or job training activity, in which case the program representative acting pursuant to the provisions of subsection a. of this section shall review the person's progress on a quarterly basis to assess whether the person's exemption from this requirement should continue.

d. The program shall assign one or more persons in each county which is participating in the program to be responsible, on a full-time basis, for job development for persons who have completed their educational or training activities under the program, with an emphasis on finding and creating permanent full-time unsubsidized jobs, preferably in the private sector, which offer wages and benefits that are adequate to support recipients and their families.

e. The commissioner, in consultation with the Commissioners of Commerce and Economic Development and Labor, and with the private industry councils established pursuant to section 18 of

P.L.1989, c.293 (C.34:15C-15), shall develop a program to recruit private sector employers in each county to offer employment to persons who have completed their educational or training activities under the program.

f. The commissioner, in consultation with the Chancellor of Higher Education and the Commissioner of Education, shall, within the limits of available funds, provide financial assistance through the New Jersey Educational Opportunity Fund established pursuant to P.L.1968, c.142 (C.18A:71-28 et seq.) and other State student assistance programs, in an amount sufficient to cover all tuition and educational expenses, to each program participant or other family member who has been accepted into an institution of higher education, including public four-year colleges and community colleges, or a postsecondary vocational training program, according to standards established by the commissioner.

g. The program shall provide supportive services to a program participant as a last resort when no other source is available therefor and when these services are included in the family plan. The supportive services shall include, but not be limited to, one or more of the following:

(1) day care services for the participant's child, to be provided for up to one year if the participant becomes ineligible for financial assistance under P.L.1959, c.86 (C.44:10-1 et seq.) as a result of earned income and to be purchased through a voucher issued to the participant by the program, which may be used to obtain care at a State licensed child care center or school age child care program, or at a family day care home approved by the department, that accepts the voucher, or to be provided through an alternative child care arrangement agreed to by the participant and the program representative acting pursuant to the provisions of subsection a. of this section;

(2) transportation services, to be provided directly by the program or through an allowance or other means of subsidy by which the participant may purchase transportation; and

(3) health insurance coverage, to be provided by a participant's employer, or through a continuation of Medicaid benefits pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) for up to two years if the participant becomes ineligible for financial assistance under P.L.1959, c.86 (C.44:10-1 et seq.) as a result of earned income; or health care services to be provided by a school-based health care program.

C.44:10-26 Assessment of needs of participant, special services.

8. In each county, the designated representative of the commissioner responsible for the development of a family plan for a

participant in the program shall conduct an assessment of the health-related, social, educational and vocational needs of the participant's family unit in preparing the family plan for the participant. If the designated representative determines that the participant faces multiple barriers to employment, is not eligible for the services of the Division of Vocational Rehabilitation pursuant to P.L.1955, c.64 (C.34:16-20 et seq.), or needs or would benefit from special individualized services in order to be able to maintain steady employment after participation in the program, or that any of the other family members require or would benefit from educational services or vocational training, then the designated representative shall include in the family plan a requirement that the participant, or the other family members, as appropriate, receive special services in addition to the other services provided to the participant pursuant to this act. The designated representative shall then arrange for the provision of these services. These special services may include: individual counseling; family counseling; parental skill training and development, providing information about child care options; individualized job training services; substance abuse counseling and treatment; individualized remedial educational or tutorial services for the participant or other family members based upon the assessment of the family's educational needs; and any other health-related, counseling, educational or vocational training services determined by the commissioner to be necessary to provide each family member who is eligible for benefits with the basic skills that are necessary to secure and maintain gainful employment, and to prepare the program participant for steady employment following participation in the program, including higher education through both four-year and community colleges, as well as postsecondary vocational training programs.

The special services shall be provided to program participants in accordance with guidelines established by the commissioner, in consultation with the Commissioners of Health, Labor, Education, Community Affairs, and Commerce, Energy and Economic Development, and the Chancellor of Higher Education and with the implementation plans established for each county pursuant to this act.

C.44:10-27 Establishment of staff training programs.

9. The commissioner shall establish staff training programs necessary to effectuate the purposes of this act, which shall be offered at State facilities, including but not limited to State institutions of higher education, and county colleges.

C.44:10-28 Establishment of family resource centers.

10. The commissioner shall establish a program office in each of the three counties with the largest number of recipients, to be designated as a family resource center. The center shall provide all program enrollment and case management services, including counseling and health-related, social, educational and vocational needs assessment services, to program participants and their families in a single setting within the county, in order to facilitate their access to these services.

C.44:10-29 Reorganization of services.

11. The commissioner shall take such actions as are necessary to reorganize the services provided by the Divisions of Economic Assistance, Youth and Family Services, and Mental Health and Hospitals of the department, the county welfare agencies and private nonprofit agencies and organizations with which the department contracts to provide services, and to promote innovative approaches to the delivery of program services through partnerships between public and private entities, and between nonprofit and for-profit entities within the private sector, in order to provide for the most effective and efficient use of public and private resources in the implementation and operation of the program.

C.44:10-30 Establishment of county planning councils.

12. a. The commissioner shall establish a planning council in each county to determine the most effective way to organize and administer the program in that county. The planning council shall include no less than 13 and no more than 15 persons and shall, at a minimum, include: the director of the program in each county, who shall be designated by the commissioner; the director of the county welfare agency; a member of the board of chosen freeholders; a representative of the county human services advisory council; a representative of the local private industry council established pursuant to section 18 of P.L.1989, c.293 (C.34:15C-15), or of a successor entity as may be provided by federal law; a representative of a child care agency in the county; a representative of the local community college; a representative of the county vocational school; a representative of private business or industry in that county; two recipients of aid to families with dependent children residing in that county; a representative of the commissioner; and a representative each of the Division of Youth and Family Services and the Division of Medical Assistance and Health Services.

b. The council shall develop a program implementation plan for the county which shall ensure that training and education services provided by the program in that county reflect local needs and resources and that supportive services provided to program participants utilize existing local arrangements wherever possible. The plan shall also designate a county agency to coordinate services provided by the program and to report to the commissioner on program implementation and effectiveness, according to criteria and standards established by the commissioner.

C.44:10-31 Reimbursement of county for program costs.

13. The commissioner shall reimburse a county for 100% of the reasonable costs associated with administration of the program and program services which are not reimbursed by the federal government.

14. Section 8 of P.L.1947, c.156 (C.44:8-114) is amended to read as follows:

C.44:8-114 Administration and funding of public assistance.

8. The State shall provide, through each municipality, public assistance to the persons eligible therefor, residing therein or otherwise when so provided by law, which assistance shall be fully funded by the State and administered by a local assistance board according to law and in accordance with this act and with such rules and regulations as may be promulgated by the commissioner.

An employable person who is receiving public assistance shall be required, except when good cause exists, to enroll and actively participate in the Family Development Initiative established pursuant to P.L.1991, c.523 (C.44:10-19 et al.).

The commissioner may exempt a person from participating in the program for reasons of physical or mental impairment, age, illness or injury, caretaker responsibilities, employment or unsuitability, as determined by the commissioner, for the services provided by the program.

Each person receiving public assistance who is required to participate in the Family Development Initiative shall receive a health-related, social, educational and vocational assessment and those services, as appropriate, which are provided to other participants in that program pursuant to P.L.1991, c.523 (C.44:10-19 et al.).

Any person who without good cause fails or refuses to enroll and actively participate in the Family Development Initiative, which includes failure to attend or make satisfactory academic progress in educational or vocational training classes under the program, including classes in four-year and community colleges

and postsecondary vocational training programs, according to rules and regulations adopted by the commissioner, shall thereupon, as determined by the commissioner, be subject to a reduction in benefits of at least 20%, or shall become ineligible for public assistance for a period of at least 90 days, which shall commence at the end of the current benefit period and at the end of which the person shall again become eligible for public assistance; provided that he complies with all requirements of the Family Development Initiative as determined by the commissioner or shows his willingness to do so. For a subsequent failure or refusal to enroll and actively participate in the program without good cause, the person may be subject to a termination of benefits.

15. Section 11 of P.L.1987, c.282 is amended to read as follows:

11. This act shall take effect immediately and shall expire three years after the effective date of P.L.1991, c.523 (C.44:10-19 et al.).

16. Section 1 of P.L.1987, c.283 (C.30:4D-6b) is amended to read as follows:

C.30:4D-6b Findings, declarations.

1. The Legislature finds and declares that: the protection afforded recipients of aid to families with dependent children (AFDC) pursuant to P.L.1959, c.86 (C.44:10-1 et seq.), through the provision of health care coverage under the Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), is a major disincentive to public assistance recipients who are considering employment; and while the federal government has recognized the relationship between medical coverage and successful employment initiatives through its policy of allowing limited extensions of Medicaid to former AFDC recipients who lose eligibility for both programs as a result of employment, only 12% of those entering employment receive Medicaid extensions for more than four months because of the strict income eligibility requirements.

The Legislature further finds and declares that: New Jersey's welfare reform program aims to transform the present AFDC program, which is a payment system, into an employment and training program the goal of which is to assist New Jersey's welfare families to realize self-sufficiency; and, therefore, it is necessary to extend Medicaid coverage for a period of up to 12 months to those AFDC recipients who lose eligibility for AFDC and Medicaid as a result of employment obtained through the welfare program.

17. Section 2 of P.L.1987, c.283 (C.30:4D-6c) is amended to read as follows:

C.30:4D-6c Continued Medicaid eligibility.

2. A person who becomes ineligible for financial assistance under the aid to families with dependent children program, P.L.1959, c.86 (C.44:10-1 et seq.), due to earnings from, or increased hours of, employment, or receipt of benefits under the "unemployment compensation law," R.S.43:21-1 et seq. or the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), is eligible to continue receiving Medicaid benefits pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) for a period of 24 consecutive months, commencing with the month in which eligibility for aid to families with dependent children ceases, if the person:

a. received financial assistance under the aid to families with dependent children program for three of the last six months prior to the person's becoming ineligible for the assistance, except in the case of a person who becomes eligible for aid to families with dependent children benefits on or after the effective date of this act; and

b. would be eligible for aid to families with dependent children financial assistance, except for the person's income, resources or hours of employment.

C.44:10-32 Report to Governor, Legislature.

18. The commissioner, in consultation with the Commissioners of Health, Labor, Education, Commerce and Economic Development, and Transportation and the Chancellor of Higher Education, shall report to the Governor and the Legislature no later than three years after the effective date of this act, and annually thereafter, on the effectiveness of the program in meeting its objectives, accompanying that report with any recommendations for changes in the law or regulations governing the program that the commissioner deems necessary.

C.44:10-33 Rules, regulations.

19. 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 carry out the provisions of this act.

20. Sections 1 through 8 and 10 through 19 of this act shall take effect on July 1, 1992, except that the commissioner may take such actions prior to the effective date as are necessary to effectuate the purposes thereof. Section 9 shall take effect immediately.

Approved January 21, 1992.

CHAPTER 524

AN ACT establishing a comprehensive social services information hotline in the Department of Human Services and supplementing Title 30 of the Revised Statutes.

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

C.30:1-1.1 Comprehensive social services information toll-free telephone hotline service established.

1. a. The Commissioner of Human Services, in consultation with the Commissioners of Community Affairs, Health and Labor, shall establish and maintain on a 24-hour daily basis a comprehensive social services information toll-free telephone hotline service, operating through one of the existing telephone hotline services of the department. The hotline service shall use a computerized Statewide social services data bank to be developed by the Department of Human Services and shall include among its staff persons who speak English and Spanish. The hotline service shall receive and respond to calls from persons seeking information and referrals concerning agencies and programs which provide various social services, including but not limited to: child care, child abuse emergency response, job skills training, services for victims of domestic violence, alcohol and drug abuse, home health care, senior citizen programs, rental assistance, services for persons with developmental disabilities, mental health programs, emergency shelter assistance, family planning, legal services, assistance for runaways and services for the deaf and hearing impaired, as well as information about public assistance, Medicaid, Pharmaceutical Assistance to the Aged and Disabled, Lifeline, Hearing Aid Assistance for the Aged and Disabled, food stamps and home energy assistance.

b. The Commissioner of Human Services, in conjunction with the Commissioners of Community Affairs, Health and Labor, shall take such actions as are necessary to consolidate existing State telephone hotline services into the comprehensive social services information toll-free telephone hotline service, and thereby eliminate duplicative telephone hotline services.

2. This act shall take effect on July 1, 1992, except that the commissioner may take such actions prior to the effective date as are necessary to effectuate the purposes of this act.

Approved January 21, 1992.

CHAPTER 525

AN ACT concerning benefits under the program of aid to families with dependent children and supplementing P.L.1959, c.86 (C.44:10-1 et seq.).

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

C.44:10-3.3 Definitions.

1. As used in this act:

"Benefits" means benefits provided under the program of aid to families with dependent children established pursuant to P.L.1959, c.86 (C.44:10-1 et seq.).

"Eligible parent" means a person who is or would be eligible for benefits based upon the income of that person and the person's natural children.

C.44:10-3.4 Eligibility for benefits of natural children of married recipients.

2. a. The Commissioner of Human Services shall revise the schedule of benefits in accordance with the provisions of subsection b. of this section.

b. An eligible parent who is married to a person who is not the parent of one or more of the eligible parent's children shall not be eligible for benefits if the household income exceeds the State eligibility standard for benefits; however, the eligible parent's natural children shall be eligible for benefits according to a sliding income scale established by the commissioner which does not take into account the income of the eligible parent's spouse, if the total annual household income does not exceed 150% of the official poverty level, adjusted for family size, established pursuant to section 673 (2) of Subtitle B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C. § 9902 (2)). The spouse of the eligible parent and the spouse's natural child, if any, who is not the eligible parent's natural child, who is living with the family shall not be eligible for benefits.

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

4. This act shall take effect on July 1, 1992, except that the commissioner may take such actions prior to the effective date as are necessary to effectuate the purposes of this act.

Approved January 21, 1992.

CHAPTER 526

AN ACT revising benefits under the program of aid to families with dependent children and supplementing P.L.1959, c.86 (C.44:10-1 et seq.).

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

C.44:10-3.5 Revision of schedule of benefits for additional child.

1. The Commissioner of Human Services shall revise the schedule of benefits to be paid to a recipient family under the program of aid to families with dependent children (AFDC) established pursuant to P.L.1959, c.86 (C.44:10-1 et seq.), by eliminating the increment in benefits under the program for which that family would otherwise be eligible as a result of the birth of a child during the period in which the family is eligible for AFDC benefits, or during a temporary period in which the family or adult recipient is ineligible for AFDC benefits pursuant to a penalty imposed by the commissioner for failure to comply with benefit eligibility requirements, subsequent to which the family or adult recipient is again eligible for benefits. The commissioner shall provide instead that a recipient family in which the adult recipient parents an additional child during the adult recipient's period of eligibility for AFDC benefits, or during a temporary penalty period of ineligibility for benefits, may receive additional benefits only pursuant to section 2 of this act, except in the case of a general increase in the amount of AFDC benefits which is provided to all program recipients.

C.44:10-3.6 Deduction in amount of financial assistance for additional child.

2. In the case of an AFDC recipient family in which the adult recipient parents an additional child during the period in which the family is eligible for AFDC benefits, or during a temporary penalty period of ineligibility for benefits subsequent to which the family or adult recipient again becomes eligible for benefits, the Commissioner of Human Services, subject to federal approval, shall provide that in computing the amount of financial assistance which is eligible for federal reimbursement to be granted to that family, the following shall be deducted from the monthly earned income of each employed person in the family:

a. those earned income disregards provided for under federal law as set forth at N.J.A.C.10:82-4.4; and

b. an additional amount earned by each employed person which, at a maximum, is equal to the difference between the

amount of subsection a. of this section and 50% of the monthly payment of financial assistance, adjusted for family size.

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

4. This act shall take effect on July 1, 1992, except that the commissioner may take such actions prior to the effective date as are necessary to effectuate the purposes of this act.

Approved January 21, 1992.

CHAPTER 527

AN ACT concerning benefits to certain families under the program of aid to families with dependent children and supplementing P.L.1959, c.86 (C.44:10-1 et seq.).

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

C.44:10-3.7 Findings, declarations.

1. The Legislature finds and declares that:

a. This State has established welfare reform as one of the major priorities of State government, with the intended goal of achieving a substantial reduction in the number of residents of this State who are enrolled in the program of aid to families with dependent children (AFDC) established pursuant to P.L.1959, c.86 (C.44:10-1 et seq.).

b. The primary obligation to support children enrolled in the AFDC program rests with the family and not the State; however, the welfare system as it currently operates in this State undermines family unity by reducing AFDC benefits for families which have able-bodied fathers of AFDC-enrolled children living in the home, even if the family's income, including the father's earnings from full or part-time employment, falls below the State AFDC eligibility standard.

c. The welfare system in this State should be designed to promote family stability among AFDC recipients by eliminating the incentive to break up families created by AFDC program regulations, which undermines the ability of AFDC-enrolled mothers to achieve economic self-sufficiency and thereby perpetuates their dependence, and that of their children, on welfare.

C.44:10-3.8 Eligibility for full benefits for working spouses living together.

2. The Commissioner of Human Services shall revise the rules and regulations governing the AFDC program to permit the program to provide full benefits to a family, whose income does not exceed the State eligibility standard, in which the parents are married and reside in the same household, without placing restrictions on the employment of either parent.

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

4. This act shall take effect on July 1, 1992, except that the commissioner may take such actions prior to the effective date as are necessary to effectuate the purposes of this act.

Approved January 21, 1992.

CHAPTER 528

AN ACT establishing the Council on Community Restoration and supplementing Title 52 of the Revised Statutes.

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

C.52:27D-150.1 Council on Community Restoration established.

1. a. There is established in the Department of Community Affairs the Council on Community Restoration.

b. The council shall be composed of:

1) a director, to be appointed by and to serve at the pleasure of the Governor;

2) the Commissioner of Community Affairs, or his designee, ex officio;

3) the Commissioner of Human Services, or his designee, ex officio;

4) the Commissioner of Commerce, Energy and Economic Development, or his designee, ex officio;

5) the Commissioner of Labor, or his designee, ex officio;

6) the Attorney General, or his designee, ex officio;

7) the Commissioner of Transportation, or his designee, ex officio;

8) the Commissioner of Health, or his designee, ex officio;

9) the Commissioner of Education, or his designee, ex officio;

10) a representative from and designated by the Economic Development Authority;

11) a representative from and designated by the Health Care Finance Authority;

12) a representative from and designated by the Housing and Mortgage Finance Authority; and

13) nine additional members, including five members from the private sector representing nonprofit organizations and professional service providers and four members of the general public, appointed by the Governor, with the advice and consent of the Senate, to serve staggered three-year terms. Of the members first to be appointed five shall be appointed for a term of one year each, two for a term of two years, and two for a term of three years. The successors of the members first appointed shall be appointed for three-year terms. Vacancies other than by expiration of terms shall be filled for the unexpired term. Any member may be reappointed.

c. The director shall employ a person to serve as secretary to the council. The secretary shall not be a member of the council.

d. All members of the council shall serve without compensation but shall be reimbursed for their actual expenses in attending the meetings of the council and in the performance of their other duties.

C.52:27D-150.2 Duty of the council.

2. a. It shall be the duty of the council to consult with and advise the Governor with respect to the allocation, coordination and prioritization of resources for community restoration projects. The council shall target neighborhoods as demonstration projects for new community development. The targeted projects shall include infrastructure improvement and expansion, facility rehabilitation and renovation, economic development, and neighborhood revitalization.

b. The council shall meet at least once annually at the call of the director and at such other times as the council shall determine, the time and place of such other meetings to be fixed by resolution of the council.

C.52:27D-150.3 Furnishing of equipment, staff.

3. It shall be the responsibility of the Department of Community Affairs to furnish such equipment and staff as are necessary to implement the work of the council within the limits of appropriations for the purpose.

4. This act shall take effect immediately.

Approved January 21, 1992.

JOINT RESOLUTIONS

New Jersey State Library

(2787)

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION designating the bridge spanning the Point Pleasant Canal in the borough of Point Pleasant, county of Ocean, as the "Lovelandtown Bridge."

WHEREAS, The bridge previously in operation which spanned the Point Pleasant Canal, connecting East and West Bridge Avenues, in the borough of Point Pleasant, county of Ocean, was known as the "Lovelandtown Bridge"; and

WHEREAS, The Mayor and Council of the borough of Point Pleasant, county of Ocean, have proposed that the bridge currently spanning the Point Pleasant Canal, and connecting East and West Bridge Avenues, be named the "Lovelandtown Bridge"; and

WHEREAS, Public commentary solicited by the governing body of the borough of Point Pleasant, county of Ocean, supported the naming of this bridge as the "Lovelandtown Bridge"; now, therefore,

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

1. The bridge spanning the Point Pleasant Canal, connecting East and West Bridge avenues, in the borough of Point Pleasant, county of Ocean, shall be designated as the "Lovelandtown Bridge."

2. The Commissioner of Transportation is authorized to erect appropriate signs bearing that name.

3. This joint resolution shall take effect immediately.

Approved March 13, 1991.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION establishing a commission to study and make recommendations concerning racism, racial violence and religious violence.

WHEREAS, The Legislature finds that the problems of racism, racial violence and religious violence are serious problems facing the State of New Jersey and the nation; and

WHEREAS, There have recently been media reports of incidents of racially and religiously motivated violence; and

WHEREAS, It is necessary to determine the methods of preventing racially and religiously motivated violence; now, therefore,

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

C.52:9DD-1 Commission on Racism, Racial Violence and Religious Violence created.

1. There is created a 21-member Commission on Racism, Racial Violence and Religious Violence to be appointed as follows: two shall be members of the Senate appointed by the President thereof, who shall not be of the same political party; two shall be members of the General Assembly appointed by the Speaker thereof, who shall not be of the same political party; the Attorney General or his designee; the Public Advocate or his designee; and 15 public members to be appointed by the Governor. The public members shall be representative of the ethnic, racial and religious diversity of the State's population and shall include representatives from the following groups: the National Association for the Advancement of Colored People, the Puerto Rican Congress, the Anti-Defamation League of B'Nai B'Rith, the New Jersey Black Issues Convention, the New Jersey Chapter of the National Rainbow Coalition, and the American Civil Liberties Union.

C.52:9DD-2 Appointment of members.

2. Initial members shall be appointed within 30 days after the effective date of this joint resolution. All members shall serve without compensation, and all appointed members shall serve during the two-year legislative session in which the appointment is made.

C.52:9DD-3 Selection of chairman, secretary.

3. The commission shall organize as soon as possible after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

C.52:9DD-4 Duties of the commission.

4. The commission shall study the various problems of racism, racial violence and religious violence, shall determine the methods of preventing racially and religiously motivated violence, and shall annually make recommendations thereon to the Governor and to the Legislature.

C.52:9DD-5 Meetings, hearings.

5. The commission may meet and hold hearings at such place or places as it shall designate.

C.52:9DD-6 Commission may request assistance, expend funds.

6. The commission shall be entitled to call to its assistance and avail itself of the services and assistance of any officials and employees of the State and its political subdivisions and their departments, boards, bureaus, commissions and agencies as it may require and as may be available to it for said purpose and may expend any funds as may be appropriated or otherwise made available to it for the purposes of its study.

C.52:9DD-7 Powers of the commission.

7. The commission shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

8. This joint resolution shall take effect immediately.

Approved April 15, 1991.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION memorializing the Chancellor of Higher Education to develop a "Student's Statement of Rights and Responsibilities."

WHEREAS, There have been a number of tragic incidents which have occurred on college and university campuses within this State and nationwide involving members of fraternities,

sororities and other campus organizations which have resulted in serious injury and even death to students; and

WHEREAS, Often students become involved in these incidents as a result of peer pressure and the desire to be part of the group; and

WHEREAS, Students are generally unaware that the acts in which they are participating may be illegal and that there are statutory and administrative prohibitions against these acts; and

WHEREAS, The well-being and safety of college and university students who are members of or are attempting to become members of fraternities and sororities and other similar campus organizations requires a delineation of the responsibilities of those organizations in regard to initiation activities and a statement of the rights of those students who participate in those activities; now, therefore,

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

1. The Chancellor of Higher Education is memorialized to develop a "Student's Statement of Rights and Responsibilities" which shall outline acceptable and unacceptable behavior and activities in regard to the pledge or rushing activities of college and university fraternities and sororities and other similar campus organizations and which shall be distributed to any student who participates in pledging activities at a college or university within the State.

2. Upon approval by the Governor, duly authenticated copies of this joint resolution shall be transmitted to the Chancellor of Higher Education.

3. This joint resolution shall take effect immediately.

Approved April 17, 1991.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION memorializing the Congress and President of the United States to enact legislation to change the United States Postal Service practices relating to junk mail; specifically requiring a procedure for its recycling, and directing local government units to notify and seek to establish voluntary procedures with district post offices for participation in recycling programs within their jurisdiction until such time as the federal recycling procedures become effective.

WHEREAS, The United States Postal Service, historically besieged by complaints of inefficient service at escalating prices, is processing growing amounts of mail which serves no purpose but to advertise one product or service or another and is frequently referred to as "junk" mail; and

WHEREAS, While, aside from the simple nuisance that this type of mail represents to the Postal Service and its customers, junk mail is a significant solid waste problem which could be significantly ameliorated through recycling, the Postal Service has no policy therefor and maintains that it is the responsibility of the addressee to provide for its disposal; and

WHEREAS, While the State of New Jersey, as well as many other states of this nation, have instituted recycling and other solid waste management programs to reduce the demand for landfill space, there is no requirement that the United States Postal Service join in this effort at the local level and thereby do its part for the protection of the environment; and

WHEREAS, It would be a simple matter for the United States Postal Service to enter into agreements with local authorities for regular pickups of junk mail which is discarded, in bulk, due to oversaturation by its distributors, and to permit residents to choose not to receive this type of mail by agreement with the district post offices; and

WHEREAS, It is altogether fitting and proper for a state to formally register its dissatisfaction with the lack of cooperation by a federal governmental entity with that state's efforts to provide a better environment for all of its citizens, and to petition for,

and the Congress and the President of the United States to adopt, legislation which would require the United States Postal Service to cooperate with local recycling efforts; now, therefore,

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

1. The government of the State of New Jersey, on behalf of its citizens, for the urgent public policy purposes presented in the preamble hereto, respectfully but firmly memorializes the Congress and the President of the United States to enact legislation to direct the United States Postal Service to provide for the recycling of bulk mail which is not collected by the addressee.

2. Each local governmental unit of the State of New Jersey shall notify the appropriate district post office as to the nature and scope of any recycling efforts within its jurisdiction and shall seek to enter into voluntary agreements therewith for the recycling of uncollected bulk mail until such time as the Congress and the President of the United States enact legislation consistent with the provisions of section 1 of this joint resolution.

3. Upon approval by the Governor, duly authenticated copies of this joint resolution shall be transmitted to the President and Vice-President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of both Houses of Congress, to every member of the Congress representing New Jersey, and to the governing body of each municipality of this State.

4. This joint resolution shall take effect immediately.

Approved July 26, 1991.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION designating the date for "Holocaust Remembrance Day."

WHEREAS, During the 1930's and 1940's at least six million Jews perished in Nazi concentration camps and slave labor camps in a systematic program of genocide which has come to be known as the Holocaust; and

WHEREAS, The Nazis' attempted destruction of all European Jews during that period, a deliberate project of mass murder fueled by unreasoning popular hysteria, represents one of the most horrifying crimes ever committed against humanity; and

WHEREAS, Millions of non-Jews also perished under Nazi persecution; and

WHEREAS, In time, the survivors of the Holocaust and the generation which witnessed these events will pass away; and

WHEREAS, Recent reports from Europe of a revival of anti-Semitism suggest that, even within the lifetime of the last of those survivors and witnesses, the horrors of the Holocaust are being forgotten; and

WHEREAS, Present and future generations must be made aware of the atrocities committed against innocent people in the name of a bigoted and perverse ideology; and

WHEREAS, All people must dedicate themselves to upholding the principles of human rights and democratic ideals so that these crimes against humanity will never be repeated; and

WHEREAS, There are still numerous Jewish survivors of the Holocaust and non-Jews who also survived persecution by the Nazis residing in this State, as well as other citizens of New Jersey whose family members were brutally murdered by the Nazis; and

WHEREAS, In order to properly honor the memory of those who perished in the Holocaust and all who perished under Nazi persecution and to honor and console those who survived, as well as call public attention to the evils of racism and tyranny, it is fitting that one day in each year shall be designated as "Holocaust Remembrance Day;" now, therefore,

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

C.36:2-22 "Holocaust Remembrance Day."

1. There is hereby designated an annual "Holocaust Remembrance Day," which shall be that day in each year which corresponds to the 27th day of the month of Nissan in the Hebrew calendar except in any year in which that 27th day falls on a public holiday or religious holiday, in which event the Governor shall designate another day, as near to that 27th day as practical, as "Holocaust Remembrance Day" in that year. All citizens of this State as well as public and private organizations are urged to recognize "Holocaust Remembrance Day" by appropriate observances.

2. This joint resolution shall take effect immediately.

Approved August 7, 1991.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION respectfully urging the federal government to rescind regulations implementing a 10-fish limit and other restrictions on the taking of bluefish and not to preempt the State of New Jersey with respect to the management of bluefish and the bluefish fishery within the three-mile territorial jurisdiction of the State.

WHEREAS, The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission have recently implemented a 10-fish limit and other restrictions on the taking of bluefish by recreational fishermen in federal waters and, in certain instances, state territorial waters; and

WHEREAS, This regulation adversely affects the many United States citizens who enjoy fishing for bluefish along the Atlantic coast as a form of recreation and relaxation, and unduly burdens the recreational fishing, party boat, charter boat, and tourism industries, which are presently already suffering serious economic hardship due to the effects of ocean pollution; and

WHEREAS, The regulation also has a particularly strong negative impact upon low income fishermen who rely on catching bluefish as an economical source of food for their families; and

WHEREAS, There is concern that in the future the federal government may regulate the bluefish fishery within the three-mile territorial jurisdiction of the states to an even greater extent than it already does, especially in those states such as New Jersey that may not fully align their bluefish management policies with those of the federal government; and

WHEREAS, In keeping with constitutional principles of federalism and states' rights, the management of bluefish and the bluefish fishery within the three-mile territorial jurisdiction of the states should be the exclusive province of the states, and not that of the federal government; now, therefore,

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

1. The federal government is respectfully urged to rescind regulations implementing a 10-fish limit and other restrictions on the taking of bluefish and to not preempt the State of New Jersey with respect to the management of bluefish and the bluefish fishery within the three-mile territorial jurisdiction of the State.

2. Duly authenticated copies of this joint resolution shall be transmitted to the Secretary of the United States Department of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Marine Fisheries Service, the Mid-Atlantic Fishery Management Council, the Atlantic States Marine Fisheries Commission, the Commissioner of the New Jersey Department of Environmental Protection, and every member of Congress elected from the State of New Jersey.

3. This joint resolution shall take effect immediately.

Approved September 18, 1991.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION memorializing the State Board of Higher Education to require institutions of higher education to provide alcohol-free social activities for students.

WHEREAS, The opportunities for students to socialize on college and university campuses are often limited and the use of alcohol is unfortunately too often associated with many of the social activities and events which do occur; and

WHEREAS, The lack of opportunities to socialize without the involvement of alcohol sends to students the message that drinking is necessary to enjoy oneself and also serves to place students who are not of legal drinking age in a conflicting situation; and

WHEREAS, Colleges and universities must make more of an effort to provide their students with social activities and events which are alcohol-free and which offer students an opportunity to get together for their mutual enjoyment without the pressure to participate in excessive or illegal drinking; now, therefore,

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

1. The State Board of Higher Education is memorialized to require each public and independent institution of higher education within the State to provide social activities and events on campus for students which do not include the use of alcoholic beverages, and to require any student activity or event at which alcohol is present which occurs on campus or which is sponsored by an organization affiliated, recognized or chartered by the institution to provide to students a sufficient supply of nonalcoholic beverages and food.

2. Upon approval by the Governor, duly authenticated copies of this joint resolution shall be transmitted to the chairman and to each member of the State Board of Higher Education and to the Chancellor of Higher Education.

3. This joint resolution shall take effect immediately.

Approved November 8, 1991.

AMENDMENTS ADOPTED IN 1991 TO THE 1947 CONSTITUTION

Amendments Adopted in 1991 to the 1947 Constitution

ARTICLE I, PARAGRAPH 22

Amend Article I by adding a new paragraph 22 to read as follows:

22. A victim of a crime shall be treated with fairness, compassion and respect by the criminal justice system. A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey. A victim of a crime shall be entitled to those rights and remedies as may be provided by the Legislature. For the purposes of this paragraph, "victim of a crime" means: a) a person who has suffered physical or psychological injury or has incurred loss of or damage to personal or real property as a result of a crime or an incident involving another person operating a motor vehicle while under the influence of drugs or alcohol, and b) the spouse, parent, legal guardian, grandparent, child or sibling of the decedent in the case of a criminal homicide.

Adopted November 5, 1991.
Effective December 5, 1991.

EXECUTIVE ORDERS

EXECUTIVE ORDER No. 24

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. 226 of January 12, 1990 will expire on January 20, 1991; and

WHEREAS, The conditions specified in Executive Order No. 106 of June 19, 1981 continue to prevent 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; and No. 226 (Kean) of January 12, 1990 shall remain in effect until January 20, 1992 notwithstanding any sections in them stating otherwise.

2. This Order shall take effect immediately.

Issued January 18, 1991.

EXECUTIVE ORDER No. 25

WHEREAS, On January 16, 1991, the President of the United States launched a military attack against Iraq; and

WHEREAS, The President had previously authorized the Secretary of Defense to call up select members of the Reserve and National Guard to active duty, and authorized the Secretary of Transportation to call up members of the Coast Guard Reserve during the Middle East crisis; and

WHEREAS, Reserve and National Guard members who are activated during this crisis serve a vital national interest for which they deserve the full support of the citizens of this State; and

WHEREAS, The State of New Jersey recognizes that a strong, ready Reserve and National Guard are essential to the defense of this country and vital to this State in a time of emergency such as exists now; and

WHEREAS, The State of New Jersey recognizes the personal and economic sacrifices of its employees serving in the Reserve and the National Guard who are called to active duty during the Middle East crisis, and recognizes the sacrifices of their families;

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. New Jersey State employees who are called to active duty during the Middle East crisis shall be entitled upon termination of active duty to return to State employment with full seniority and benefits consistent with State and federal military reemployment and seniority rights.

2. During active duty for the duration of their activation in the Middle East crisis, these State employees shall be entitled to receive a salary equal to the differential between the employee's State salary and the employee's military pay.

3. These State employees shall be entitled to State employee health benefits, life insurance and pension coverage during active

duty service for which they receive differential salary as prescribed in this Order as if they were on paid leave of absence.

4. The Commissioner of Personnel shall implement this Executive Order and each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commissioner of Personnel and to make available to him such information, personnel and assistance as necessary to accomplish the purposes of this Order.

5. This Order shall take effect immediately.

Issued January 18, 1991.

EXECUTIVE ORDER No. 26

WHEREAS, Christopher J. Jackman first graced the State capital some 30 years ago as a staff member for the New Jersey Senate and General Assembly; and

WHEREAS, He rose from his staff position to be elected to the General Assembly in 1967, an office to which he was reelected seven times; and

WHEREAS, During his service in the General Assembly, his colleagues exhibited their respect and faith in his leadership by electing him their Majority Leader and Speaker; and

WHEREAS, After distinguished service in the General Assembly, Christopher J. Jackman was elected to serve in the New Jersey Senate in 1982 and reelected to a second term in 1989; and

WHEREAS, As a State legislator, Christopher J. Jackman was a tenacious proponent of the causes he espoused and a consistently strong voice for senior citizens and all the people he represented; and

WHEREAS, His good humor and inimitable style, which so often diffused difficult situations, brought diverse groups together and immeasurably improved the legislative process; and

WHEREAS, He brought the same vigor and commitment which he demonstrated as a legislator to his work in union affairs and in his community activities; and

WHEREAS, In spite of his significant stature among his colleagues and admirers, both in the Legislature and throughout the State, he was the embodiment of humility and sincerity, and a friend to all who had the privilege to know him; and

WHEREAS, His dedication to public and community service have never detracted from his devotion to his family and friends; and

WHEREAS, It is fitting and appropriate for the State of New Jersey to mark the passing of Christopher J. Jackman, an irreplaceable leader and public servant;

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 beginning on Wednesday, January 30, 1991, through and including Friday, February 1, 1991 in recognition and mourning of the passing of a distinguished legislator and leader, Christopher J. Jackman.

2. This Order shall take effect immediately.

Issued January 29, 1991.

EXECUTIVE ORDER No. 27

WHEREAS, There continues to be an absence of a comprehensive, coordinated range of services for juveniles who become involved in the juvenile justice system; and

WHEREAS, The Department of Corrections, Division of Juvenile Services, has shown that alternative correctional programs for troubled youth are appropriate and cost-effective; and

WHEREAS, There continues to be a lack of sufficient alternatives to costly institutional care; and

WHEREAS, Substantial numbers of juveniles require timely prevention and intervention services; and

WHEREAS, It is essential that we avoid duplication and make the best possible use of public funds; and

WHEREAS, There are a number of separate departments and agencies involved in providing services to troubled youth; and

WHEREAS, Effective prevention and intervention services for youth at risk of involvement with the juvenile justice system will require cooperative and coordinated efforts of various departments of State, county and local governments as well as business, religious and community organizations; and

WHEREAS, The Attorney General has developed and released an Attorney General Directive to police and prosecutors on the handling of juvenile matters;

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 a Governor's Cabinet Action Group on Juvenile Justice (hereinafter referred to as the Action Group). The Action Group shall consist of the Attorney General, who shall serve as chairperson; the Commissioner of Education; the Commissioner of Health; the Commissioner of Human Services; the Commissioner of Corrections; the Commissioner of Labor, the

Commissioner of Community Affairs; and the Public Advocate. The Administrative Director of the Courts should be invited to participate in the activities of the Action Group.

2. The responsibilities and functions of the Action Group shall include:

a. Identifying, developing and implementing a range of services, both residential and non-residential, for juvenile justice system-involved youth so that more uniform, timely, cost-effective and appropriate alternatives to institutional care are made available to youth for whom institutional care is not warranted.

b. Consistent with the Code of Juvenile Justice, working cooperatively to expand the range of disposition options available to the Court, including the sharing of resources to allow for more appropriate intervention services at the local level.

c. Substantially increasing the availability of drug treatment services to juvenile justice system-involved youth and youth at risk of involvement with the juvenile justice system.

d. Developing formal interdepartmental policy and planning agreements in order to improve coordination and cooperation among State departments of government in the provision of services to youth at risk of involvement with the juvenile justice system. These agreements must include cross-training sessions including cultural and ethnic sensitivity training, the willingness to share State and federal resources, and a mechanism to share data and department policy decisions affecting juvenile justice system-involved youth.

e. Developing more efficient, cost-effective community-based prevention and intervention services to prevent youth from proceeding further into the juvenile justice system. This shall include expanded efforts to keep troubled youth within the educational system and an emphasis by each department of State government on the development of public/private partnerships in their service delivery systems for youth.

f. Reporting to the Governor on an ongoing basis as to issues, programs and the setting of budgetary and policy priorities.

3. The Action Group shall begin its efforts immediately. The Action Group shall work cooperatively with the Judiciary and Legislature and shall consult with the State Youth Services Commission, the Association for Children of N.J., the Governor's Committee on Children's Services Planning, the Governor's Juve-

nile Justice and Delinquency Prevention Advisory Committee, the Juvenile Delinquency Commission, the Governor's Council on Alcoholism and Drug Abuse, and any other agencies and organizations involved with policy and program issues for delinquent and pre-delinquent youth.

4. The Office of the Attorney General shall coordinate staffing needs of the Action Group. Each member of the Action Group shall assign a representative of his or her department to be designated as staff support to the Action Group. The Action Group is authorized to call upon any department or agency of State government to provide such information, resources or other assistance deemed necessary to discharge their responsibilities under this Executive Order.

5. This Order shall take effect immediately.

Issued March 11, 1991.

EXECUTIVE ORDER No. 28

WHEREAS, On September 25, 1990, the 101st Congress of the United States enacted amendments to the Carl D. Perkins Vocational Education Act of 1984, which amendments are referred to as the Carl D. Perkins Vocational and Applied Technology Education Act of 1990, Federal Public Law 101-392 (hereinafter referred to as the "Perkins Act"); and

WHEREAS, The public interest of 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 of New Jersey the benefits of federal appropriations under the Perkins Act for all purposes specified therein; and

WHEREAS, The Perkins Act requires that each state establish an advisory council on vocational education as a condition of the receipt of federal funds for vocational education programs; and

WHEREAS, New Jersey has previously complied with this federal requirement through the establishment of an advisory council by Executive Order No. 126 (Kean); and

WHEREAS, New Jersey has recently passed legislation permanently establishing the State Employment and Training Commission (hereinafter referred to as 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 vocational education as a vital component of the State's employment and training policy; and

WHEREAS, Coordination and cooperation between the Commission and the State's federally-mandated advisory council on vocational education 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 reconstituting the advisory council and establishing procedures that will ensure an effective working relationship between the Commission and the advisory council;

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.a. There is hereby established the State Council on Vocational Education (hereinafter "the State Council") which shall be composed of 13 individuals appointed by the Governor and shall be broadly representative of citizens and groups within the State having an interest in vocational education as follows:

(1) Seven individuals who are representative of the private sector in the State.

(A) Five of these individuals shall be representative of business, industry, trade organizations and agriculture including:

(i) one member who is representative of small business concerns; and

(ii) one member who is a private sector member of the State Job Training Coordinating Council (established pursuant to section 122 of the Job Training Partnership Act referred to as the Commission in New Jersey) and

(B) Two of these individuals shall be representatives of labor organizations;

(2) Six individuals who are representative of secondary and post-secondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations within the State, individuals who have special knowledge and qualifications with respect to the special educational and career development needs of special populations (including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities) and of whom one member shall be representative of special education and may include members of vocational student organizations and school board members.

b. In making appointments to the State Council, 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 Commission and who possess the qualifications necessary to serve on the State Council.

c. Members shall serve for terms of three years, except that, of the initial appointees pursuant to this Executive Order, four shall serve for terms of one year, four shall serve for terms of two years and five shall serve for terms of three years. The terms 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.

2. The functions of the State Council shall be in accordance with Section 12 of Public Law 101-392 and the State Council shall be assigned in, but not of, the Department of Labor.

3. The State Council shall:

(a) meet with the State Board of Education (hereinafter referred to as the State Board) or its representatives to advise on the development and make recommendations to the subsequent State Plan for Vocational Education. The State Council may submit a

statement to the Secretary of the United States Department of Education reviewing and commenting upon the State Vocational Education Plan. Such statement shall be sent to the Secretary with the State Plan.

(b) make recommendations to the State Board and make reports to the Governor, the business community and general public of the State, concerning:

(1) the State Vocational Education Plan;

(2) policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped); and

(3) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State;

(d) furnish consultation to the State Board on the establishment of evaluation criteria for vocational education programs within the State;

(e) submit recommendations to the State Board on the conduct of vocational education programs conducted in the State which emphasize the use of business concerns and labor organizations;

(f) assess the distribution of financial assistance furnished under Public Law 100-392, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

(g) recommend procedures to the State Board to ensure and enhance the participation of the public in the provision of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations;

(h) report to the State Board on the extent to which the individuals who are members of special populations are provided with equal access to quality vocational education programs;

(i) analyze and review corrections education programs; and

(j) (1) evaluate at least once every 2 years

(i) the extent to which vocational education, employment, and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State;

(ii) the vocational education program delivery system assisted under this Act, and the job training program delivery system assisted under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the aforementioned Acts; and

(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

(2) comment on the adequacy or inadequacy of State action in implementing the State plan;

(3) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

(4) advise the Governor, the State board, the State Employment and Training Commission, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.

4. The Chairperson of the Commission shall analyze and, to the extent required, reorganize the current work and structure of the Commission to assist the activities and functions of the State Council.

5. To the extent permitted by Federal law, members of the Commission not designated as State Council members may participate in the work of the State Council, may attend its meetings, may at the discretion of the chair of the State Council, enter into discussions on matters before the State Council, but may not vote on matters before the State Council.

6. The State Council is authorized to apply for and receive funds 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 Perkins Act and to contract for such services as may be necessary to enable the State Council to carry out its evaluation functions independent of programmatic and administrative control by other State boards, agencies and individuals.

7. The expenditure of the funds paid pursuant to the Perkins Act is to be determined solely by the State Council for carrying out its functions under the Federal Act, and may not be diverted or re-programmed for any other purpose by any State board, agency or individuals. The State Council shall designate an appropriate State agency or other public agency, eligible to receive funds under the Federal Act, to act as its fiscal agent for purposes of disbursement, accounting and auditing.

8. The State Council shall meet as soon as practicable after certification has been accepted by the Secretary of Education and shall select from among its membership a Chairperson who shall

be representative of the private sector. 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 vocational education program of the State.

9. Executive Order No. 126 (Kean) is hereby rescinded.

10. This Order shall take effect immediately.

Issued March 15, 1991.

EXECUTIVE ORDER No. 29

WHEREAS, The President of the United States issued an Executive Order on August 22, 1990 authorizing the call to active duty with the Armed Forces and Coast Guard of the United States of America selected New Jersey resident members of the reserves or the National Guard in support of Operation Desert Shield/Storm; and

WHEREAS, Executive Order Number 15 was signed into effect on September 13, 1990 directing that New Jersey State employees called to active duty during Operation Desert Shield would be entitled upon termination of such active duty to return to State employment with full seniority and benefits; would be entitled to receive a salary equal to the differential between the employee's State salary and the employee's miliary pay up to 180 days; and would be entitled to State employee health benefits, life insurance and pension coverage while receiving differential salary as if they were on a paid leave of absence; and

WHEREAS, Executive Order Number 25 was signed into effect on January 18, 1991 commensurate with the conversion of Operation Desert Shield to Desert Storm extending the provisions of Executive Order 15 to the duration of individual mobilization and deployment on active duty; and

WHEREAS, Emergency Rule N.J.A.C. 18:34-1.25 was adopted on January 31, 1991 certifying that an Imminent Peril exists

extending the time for filing individual and joint income tax returns and the payment of gross income tax for a period of combat service or hospitalization, plus 180 days without fine or penalty for mobilized New Jersey residents; and

WHEREAS, On February 9, 1991 the citizens of New Jersey reached out to their fellow citizens, families and neighbors called to duty in an expression of support and concern in an Interfaith Service held at the Trenton War Memorial; and

WHEREAS, These resident Reserve and National Guard members served their State and Nation with distinction without regard to personal and family hardship and sacrifice; and

WHEREAS, The State of New Jersey acknowledges the contributions to the peace and freedoms enjoyed by all its citizens made by these dedicated and loyal citizen-soldiers, -marines, -sailors, -airmen and -coast guardsmen; and

WHEREAS, It is realized that many of the State's resident Mobilized Reserve and National Guard members and their families will suffer short and long term emotional, financial and physical hardships due to their service during Operation Desert Shield/Storm; and

WHEREAS, It is only fitting and proper that the State recognize the sacrifices made by its resident Reserve and National Guard members and the debt owed to them; and

WHEREAS, The New Jersey Department of Military and Veterans' Affairs through its military and veteran activities has been coordinating, overseeing and assisting in the mobilization of National Guard units, as well as in programs to aid mobilized and deployed State residents and their families regardless of component and service; and

WHEREAS, The New Jersey Department of Military and Veterans' Affairs has an existing organization of Family Assistance Groups and coordinators as well as Veterans' Services Officers and Veterans' Programs which now are assisting mobilized residents and their families and are prepared to continue to do so upon their demobilization and return to civilian life;

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. Any New Jersey resident mobilized into Active Duty with the Armed Forces or Coast Guard of the United State by order of the President for Operation Desert Shield/Storm will be considered eligible for those Veterans' Entitlements for which they are in all other aspects qualified.

2. The New Jersey Department of Military and Veterans' Affairs is charged with the responsibility for the coordination of the provision of such entitlements and services offered by the State in support of its Mobilized Residents and their families.

3. The Adjutant General of the New Jersey Department of Military and Veterans' Affairs will develop and establish the criteria for a New Jersey Operation Desert Shield/Storm Service Medal in order to appropriately recognize the sacrifices of New Jersey's resident Reserve and National Guard members and their service to State and Nation.

4. All New Jersey Veterans' organizations and employers are encouraged to cooperate with the Department of Military and Veterans' Affairs and with their local communities to ensure that the State's returning service members receive the reception and support that they and their families deserve.

5. The Department of Military and Veterans' Affairs shall also serve as the coordinating agency for all inquiries made by military personnel, their families and the general public concerning available support services and entitlements.

6. Each city, municipality and county of the State is encouraged to render by ceremony a fitting tribute to the services of their respective citizens who were called to duty during Operation Desert Shield/Storm as they deem appropriate.

7. The Adjutant General of the New Jersey Department of Military and Veterans' Affairs shall implement this Executive Order and each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law,

to cooperate with the Adjutant General and to make available to him such information and assistance as may be necessary to accomplish the purposes of this Order.

8. This Executive Order shall take effect immediately.

Issued March 20, 1991.

EXECUTIVE ORDER No. 30

WHEREAS, On May 24, 1984, Executive Order No. 72 created a Governor's Council on the Prevention of Mental Retardation, a body composed of Commissioners of various State departments and of concerned citizens who have distinguished records in the area of mental retardation and developmental disabilities; and

WHEREAS, Public Law 1987, Chapter 5, was enacted on January 20, 1987, establishing a permanent Office for Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services; and

WHEREAS, The Governor's Council on the Prevention of Mental Retardation was renamed The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities by Executive Order No. 178 on July 30, 1987; and

WHEREAS, The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities serves as an Advisory Council to the Office for the Prevention of Mental Retardation and Developmental Disabilities and to the Commissioner of the Department of Human Services; and

WHEREAS, The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities is an essential component of the office for the Prevention of Mental Retardation and Developmental Disabilities and should continue to serve as an advisory council; and

WHEREAS, the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities lapsed on December 31, 1990;

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 ORDER and DIRECT:

1. The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities is hereby re-established for a period of three years, expiring December 31, 1993.

a. The Council shall consist of no more than 25 public members appointed by the Governor. The members shall be appointed from among persons representing people with disabilities, professionals in mental retardation and developmental disabilities, and persons from the business and health communities.

b. The Commissioners from the Departments of Human Services, Education, Health, Environmental Protection, the Public Advocate, Community Affairs, and/or their designees, shall serve on the Council.

c. The public members shall serve for a term of three years, except that of those first appointed, eight shall serve for a term of one year, eight shall serve for a term of two years and the remainder shall serve for a term of three years. Council vacancies among the public members shall be filled by appointment by the Governor for the remainder of the unexpired term.

d. The Governor shall designate the Chairperson of the Council from among members of the Council. The Chairperson of the Council shall serve at the pleasure of the Governor.

e. The Council may further organize itself in any manner it deems appropriate and may enact by-laws as deemed necessary to carry forth its responsibilities.

2. The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities shall:

a. Advise the Commissioners of the Departments of Human Services, Health, Education, Environmental Protection, the Public Advocate, and Community Affairs and the Office for Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services regarding the priorities for prevention in the State;

b. Mobilize citizens and community agencies to support prevention-related activities;

c. Develop mechanisms to facilitate early detection;

d. Foster cooperative working relationships among responsible agencies; and

e. Provide other information on prevention as the Governor may request.

3. The Council, in performing its charges, shall consult with existing agencies for planning, coordination and delivery of prevention services to families at the State, county, and local levels.

4. The Departments of Human Services, Education, Health, Environmental Protection, the Public Advocate and Community Affairs are authorized and directed, to the extent consistent with the law, to cooperate with the Council and to furnish it with resources necessary to carry out its purpose under this Order.

5. This Order shall take effect immediately and shall expire on December 31, 1993.

Issued April 15, 1991.

EXECUTIVE ORDER No. 31

WHEREAS, The Polish Constitution was the first European constitution providing for freedom of citizenry and is patterned after the United States Constitution; and

WHEREAS, It is desirous and beneficial to educate ourselves and our children regarding Poland's struggle for freedom and autonomy from its foreign aggressors which culminated in the drafting of the Polish Constitution; and

WHEREAS, A comprehensive study of the Polish Constitution is necessary to ensure that the historical significance of the Polish Constitution is understood and appreciated; and

WHEREAS, May 3, 1991, marks the official day of celebration of the Bicentennial of the Polish Constitution;

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 laws of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Governor's Study Group on the Bicentennial of the Polish Constitution.

2. The Study Group shall consist of no more than thirty members. The members of the Study Group shall include the Secretary of State or her designee; the Director of the Office of Ethnic Affairs within the Department of State or his designee; and twenty-eight public members to be appointed by the Governor. The public members to be appointed shall consist of representatives of the Polish leadership groups throughout the State as well as eminent historians and educators who have distinguished records of knowledge concerning the history of Poland and the Polish Constitution. The public members shall serve at the pleasure of the Governor. The members of the Study Group shall serve without compensation.

3. The Governor shall designate a Chairperson and Vice Chairperson from among the public members of the Study Group.

4. Study Group vacancies shall be filled by the Governor for the remainder of the unexpired term.

5. It shall be the duty of the Governor's Study Group on the Bicentennial of the Polish Constitution to conduct a thorough study of the Polish Constitution and to promote its historical significance.

6. The Study Group shall receive administrative staff support from the Office of the Secretary of State but shall not obligate any funds of that Office or of any other department, office, division or agency of the State.

7. The Study Group shall issue a report of its findings to the Governor on or before May 3, 1992, accompanying the report with any recommendations it deems appropriate. The Study Group may issue interim reports concerning its study as it shall determine.

8. This Order shall take effect immediately and shall terminate on May 4, 1992.

Issued May 6, 1991.

EXECUTIVE ORDER No. 32

WHEREAS, Executive Order No. 53 created the Hudson River Waterfront Development Committee; and

WHEREAS, The purpose of this Committee was to develop a program to promote and encourage waterfront development; and

WHEREAS, The designation of the Commissioner of Commerce and Economic Development as Chairperson of the Committee will aid in the direction of the Committee toward the purpose for which it was established;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vest in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. Section (1) of Executive Order No. 152 is hereby amended as follows:

"1. There is hereby created a Hudson River Waterfront Development Committee composed of thirteen (13) members as follows:

a. The Chief of the Governor's Office of Policy and Planning of his designee;

b. The Commissioner of Transportation or his designee;

c. The Commissioner of Commerce and Economic Development who shall act as Chairperson of the Committee;

d. The Commissioner of Environmental Protection or his designee;

e. The Commissioner of Community Affairs or his designee;

f. A representative of the Port Authority of New York and New Jersey; and

g. Seven other members to be appointed by the Governor."

2. Sections 2 through 8 of Executive Order No. 53 are to remain in effect as originally issued.

3. This Order shall take effect immediately.

Issued May 23, 1991.

New Jersey State Library

EXECUTIVE ORDER No. 33

WHEREAS, State Government is entrusted with the responsibility to manage operations in a manner that carefully conserves taxpayer dollars; and

WHEREAS, By Executive Order No. 4, the State's car fleet has been reduced in furtherance of this responsibility to taxpayers; and

WHEREAS, The State must continue to provide a diverse fleet of vehicles, including certain passenger cars, police cars, vans, pick-up trucks, dump trucks as well as snow removal, landscape and heavy construction equipment to support necessary State services; and

WHEREAS, The cost of acquiring and maintaining the State's essential fleet of vehicles constitutes a public expense; and

WHEREAS, The assignment, use and maintenance of all State vehicles must be scrutinized to ensure that the fleet size is appropriate to meet legitimate program needs and that it is managed in the most cost efficient manner; and

WHEREAS, The Governor's Management Review Commission has undertaken an operational review of the maintenance and use of State vehicles and has found that the present decentralized fleet management practices have led to duplicative and inconsistent programs within the agencies that concurrently manage, maintain, and repair State vehicles; and

WHEREAS, The Governor's Management Review Commission has also suggested that 29 of the State's 71 existing vehicle maintenance facilities can accommodate the State's entire vehicle maintenance needs; and

WHEREAS, Increased consolidation of the supervision, control and maintenance of State-owned and leased vehicles will eliminate duplication, standardize policy, increase efficiency and substantially reduce costs; and

WHEREAS, The Governor's Management Review Commission has determined that the Central Motor Pool agency, within the Department of the Treasury, can efficiently manage, maintain, and repair the State vehicle fleet;

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 Department of the Treasury shall:

a) assume title of all State-owned vehicles, and management, control, and supervision of all State-owned and leased vehicles;

b) assume control and management over all State vehicle maintenance, fueling and repair facilities and, through the Central Motor Pool Agency, be responsible and accountable for managing all of those facilities as are determined to be necessary; and

c) implement the consolidation of the State vehicle maintenance and fueling facilities as outlined and recommended by the Governor's Management Review Commission.

For purposes of this Order, "vehicle" means any device which is required to be registered with or licensed by the Division of Motor Vehicles, except water craft.

2. In developing a plan to implement the consolidation of motor vehicle maintenance and fueling facilities, the Department of Treasury shall:

a) consult with all affected State departments and agencies;

b) thoroughly review the impact of the plan upon State personnel and, where possible, achieve reductions in personnel through attrition; and

c) assure that the quality and reliability of public and life safety services provided to the citizens of the State are maintained or improved.

3. The State Treasurer shall issue guidelines and promulgate rules or regulations as may be necessary to assure the proper assignment, use and maintenance of State owned and leased vehicles.

4. The Department of the Treasury shall complete consolidation of the operation of motor vehicle maintenance and fueling facilities no later than 18 months from the effective date of this Order.

5. Each department, division, office or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with and assist the Department of the Treasury by making available the necessary information, personnel, and support required to carry out the designs of this Order.

6. This Order shall take effect immediately and shall supersede any prior Executive Order to the extent inconsistent with this Order.

Issued June 7, 1991.

EXECUTIVE ORDER No. 34

WHEREAS, The New Jersey Source Separation and Recycling Act, P.L.1987, c.102, mandates the recycling of solid waste materials for the purpose of reducing the amount of solid waste requiring disposal, conserving valuable resources and energy, and increasing the supply of reusable waste materials for New Jersey's industries; and

WHEREAS, State solid waste policy calls for the recycling of at least 60 percent of all solid waste generated in New Jersey within five years; and

WHEREAS, Attainment of a 60 percent Statewide solid waste recycling rate will depend on the support and cooperation of every sector of the State economy, including State agencies and instrumentalities; and

WHEREAS, State agencies and instrumentalities should serve as models for other public and private entities in the areas of source reduction and recycling so that the reduction of solid waste and recovery of reusable materials will be promoted to the greatest extent possible; and

WHEREAS, State agencies and instrumentalities generate a significant amount of recyclable waste material and have the potential to reduce that waste through source reduction and recycling 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 Statutes of this State, do hereby ORDER and DIRECT that each State agency or instrumentality:

1. Appoint a recycling coordinator who will be responsible for coordinating the implementation of a Source Reduction and Recycling Program for waste materials generated by its agency.

2. Conduct a waste audit, with the assistance of the Department of Environmental Protection (DEP), for the purposes of identifying and implementing practices which can reduce the amount of solid waste generated, and increase the recycling rate

for the agency or instrumentality to at least 60 percent within five years of the effective date of this Order. Where an agency or instrumentality determines, based on its analyses, that a 60 percent recycling rate cannot be attained due to the unique nature of its waste stream and specific technical or economic constraints, the agency or instrumentality shall submit to the Governor's Office and the Department of Environmental Protection, written analyses that identify the technical or economic constraints preventing the attainment of the 60 percent recycling rate, and specify the maximum feasible recycling rate to be achieved by the agency or instrumentality within five years.

3. Develop and maintain programs to separate waste materials for recycling, and consider the inclusion, in these programs, of at least the following materials types: office paper, corrugated cardboard, newspaper, metal cans, glass bottles, and plastic beverage containers.

4. Where the agency or instrumentality generates scrap metal, motor oil, refrigerants, tires, automobile batteries, anti-freeze, X-rays, photographic film and chemicals, concrete, asphalt, yard waste or food waste, develop and maintain programs to separate these materials for recycling or, as appropriate, composting.

5. Where the agency or instrumentality has responsibility for maintaining public lands, comply with the Department of Environmental Protection's "Grass: Cut It and Leave It" policy.

6. Where the agency or instrumentality has responsibility for maintaining State recreational areas, provide separate receptacles for the disposition and collection of metal, glass and plastic containers and ensure that those materials are marketed for recycling.

7. Provide for two-sided printing of all publications, documents, and photocopying where feasible. Each office shall have at least one photocopying machine with two-sided features and the capability of utilizing recycled paper.

8. Where feasible, replace disposable products with reusable products, especially in those instances where a class of disposable products accounts for a significant proportion of the solid waste disposed of by the agency or instrumentality.

9. Submit an annual report to the Department of Environmental Protection on the tonnage of material recycled from its facilities by April 1 for the previous calendar year.

10. Submit tonnage information to the municipality in accordance with municipal requirements.

11. Provide for an education program for employees on the State's Source Reduction and Recycling Program.

I further direct that the Department of Environmental Protection:

1. Provide technical assistance to help State agency coordinators develop and implement the programs mandated by this Executive Order; and

2. Assist other agencies and instrumentalities in the development and implementation of educational programs; and

I direct that the Department of the Treasury:

1. Ensure that all solid waste contracts written for solid waste collection and disposal include provisions that reflect a reduction in waste generation rates achieved through source reduction and recycling, and provisions that ensure conformance to county and municipal recycling requirements.

2. Require contract vendors to provide tonnage and revenue reports to each agency on instrumentality.

3. Ensure that all contracts for leased and owned building under the jurisdiction of the Department of the Treasury provide for source separation and recycling programs.

4. Ensure that all janitorial contracts awarded by the State include recycling collection services, where feasible.

5. Establish a revolving fund, consisting of monies derived from the contracted sale of recyclable materials, to be used in supporting State agency recycling programs. It is further ordered that at least ten percent of the total fund be allocated to the Office of Recycling in the Department of Environmental Protection to support educational and technical assistance programs needed to develop and maintain State agency recycling programs. Any revenue derived from the sale

of recyclable materials sold as part of a training and education program for the rehabilitation of individuals at State institutions may be used to provide direct support for these programs.

6. This Order shall take effect immediately.

Issued June 13, 1991.

EXECUTIVE ORDER No. 35

WHEREAS, The New Jersey-Israel Commission (Commission) was created on May 31, 1989 by Executive Order No. 208 to enhance New Jersey's ability to implement the development of trade, capital investment and joint business ventures in addition to the development of cultural and educational exchanges between New Jersey and Israel as stated in the Sister State Agreement with Israel (Agreement); and

WHEREAS, The Commission expired on May 31, 1991; and

WHEREAS, The Commission has helped to foster a spirit of cooperation between the citizens of Israel and the citizens of New Jersey that should continue to be available in order to achieve the goals of the Agreement; and

WHEREAS, Modification of the membership of the Commission and its directives has been recommended;

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 New Jersey-Israel Commission shall continue in existence through and including May 31, 1993.

2. The membership of the Commission shall be modified to consist of a minimum of fifteen members and a maximum of seventy-five members. These members of the Commission shall be appointed by the Governor. An additional eight members of the

Commission shall be State legislators, four of whom shall represent the General Assembly and four of whom shall represent the Senate. All legislative members shall be appointed by their respective legislative leadership.

3. The structure of the Commission shall consist of the following five subcommittees:

a. Committee on Economic Development and International Trade;
b. Committee on Research, Science and Technology;
c. Committee on Education;
d. Committee on Culture and Tourism; and
e. Committee on Agriculture and Natural Resources.

Each subcommittee shall have as an ex-officio member, one State official who will be appointed by the Governor, to provide assistance when needed. The Commission shall also have an Executive Committee comprised of the two co-chairpersons of the Commission, the five chairpersons of the Commission's five subcommittees, and five at-large members, who shall all be designated by the Governor.

4. The Commission shall report directly to the Office of the Governor.

5. This Order shall take effect immediately.

Issued July 16, 1991.

EXECUTIVE ORDER No. 36

WHEREAS, Printing and copying services are necessary for State government to provide services and information to the citizens of the State; and

WHEREAS, The Governor's Management and Review Commission has undertaken an operational review of State print shops and printing operations and has found that present decentralized management practices have led to: an excessive number of print shops and copy centers; little coordination among departments; inconsistency in job pricing, State forms, and standards of performance; and an underutilization of personnel and equipment; and

WHEREAS, The majority of the State's 14 main print shops are located within one square mile of each other and provide decentralized services with little coordination between departments and agencies; and

WHEREAS, This current decentralization is inconsistent with Executive Order No. 13, effective January 23, 1964, and still in force, which created the Central Duplicating and Printing Control office to supervise, coordinate, and regulate all State printing; and

WHEREAS, The consolidation of print shops and centralized oversight of printing and photocopying operations will provide substantial savings and improve the efficiency of print shop and photocopying operations and the quality of those services;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the power vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Department of the Treasury shall establish a Printing Control Office to supervise, coordinate and control all printing done by the State of New Jersey in the State's own facilities or for the State of New Jersey in privately owned and operated facilities;

2. The Printing Control Office shall exercise the following powers and duties that are consistent with the intentions and recommendations of the Governor's Management and Review Commission:

a. Consolidate State print shops and photocopying to improve or eliminate such facilities wherever possible to achieve maximum efficiency and economy;

b. Periodically review photocopier placement and use in all State agencies, and exchange or eliminate photocopiers wherever possible to achieve maximum efficiency and economy;

c. Annually review all print shops and photocopiers to assure that the most economical use is being made of State resources;

d. Determine which printing jobs are to be done in State print shops or photocopier centers and which are to be done by private vendors;

e. Review for approval all bid specifications for print jobs using current delegated purchasing authority procurement guidelines pursuant to P.L.1985, c.107, PC 23;

f. Review for approval all departmental and agency requests for equipment for duplicating, printing, photocopying and graphics;

g. Determine and control quality standards, performance measures, and pricing methodologies for all State print and photocopier shops;

h. Provide technical assistance and guidance to print shops and all State personnel involved in the procurement of printing services.

3. Each department, division, office or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with and assist the Department of the Treasury by making available the necessary information, personnel and support required to carry out the designs of this Order.

4. This Order shall take effect immediately.

Issued July 17, 1991.

EXECUTIVE ORDER No. 37

WHEREAS, Severe weather conditions of July 13, 1991, including heavy rains, have caused flooding which resulted in the destruction of a traffic bridge on Route 9, a State highway in Lacey Township, County of Ocean; and

WHEREAS, This condition causes a continued impediment to the use of Route 9, a heavily trafficked State highway particularly during the summer and on weekends, and other major transportation routes and facilities in the area; and

WHEREAS, The management and control of the traffic emergency caused by the destruction of the bridge on this crucial portion of Route 9 is beyond the capability of local authorities; and

WHEREAS, The expeditious correction of this traffic emergency may require the assistance and resources of the State government and of each and every political subdivision of this State, whether of men, properties or instrumentalities, and may require the commandeering and utilization of any personal services and any privately owned property; and

WHEREAS, The Constitution and Statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (N.J.S.A. App. A:9-34, A:9-51) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers.

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 Ocean County.

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.

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 July 19, 1991.

EXECUTIVE ORDER No. 38

WHEREAS, Reorganization Plan (No. 002-1991) is due to become effective on August 19, 1991 in order to enhance the coordination and integration of the State's utility, environmental and energy policies; and

WHEREAS, The provisions of this Plan with respect to the operations and organization of the Board of Regulatory Commissioners and the Department of Environmental Protection and Energy warrant further clarification and specificity; and

WHEREAS, Implementation of this Plan requires the coordinated efforts and assistance of other departments and agencies of the Executive Branch; and

WHEREAS, The prompt, efficient and effective implementation of the Plan is in the best interest of the State particularly during this difficult fiscal period;

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. All department and agencies of the Executive Branch shall --

a. Take all actions reasonably necessary and appropriate for the effective implementation of Reorganization Plan (No. 002-1991), and provide any assistance, as may be appropriate and requested by the Board of Regulatory Commissioners (the Board) or the Department of Environmental Protection and Energy (the Department), or both, to implement the provisions of the Plan.

b. Use the title "Board of Regulatory Commissioners" and "Department of Environmental Protection and Energy" when referring to the Board or the Department, as the case may be, in rules and regulations, orders, directives and other official correspondence, reports, documents and writings.

c. Use the title "Chairman" or "Chairwoman" as the case may be, when referring to the designated presiding officer of the Board.

2. The Board of Regulatory Commissioners and the Department of Environmental Protection and Energy shall --

a. Assume and fulfill the responsibilities assigned to each agency pursuant to the provisions of the Plan, under which the regulatory decision-making functions of the Board shall be independent of any supervision or control by the Department or the Commissioner or any officer or employee thereof or any other department or agency of the Executive Branch of State Government. The Board shall exercise these functions with respect to rates, mergers, acquisitions, certificates, and all other regulatory matters under the jurisdiction of the Board through the technical utility regulation units assigned to the Board, including Gas, Electric, Water and Sewer, and Telecommunications and Cable Television.

b. Enter into a protocol, which shall --

(1) Identify the duties and responsibilities of the personnel who shall perform the budgetary, fiscal, personnel and day-to-day administrative responsibilities of the Board and the Department jointly;

(2) Provide for the performance of these responsibilities and other staff support services, including but not limited to the services of the Office of the Economist, in a manner that ensures the Board's control over the information, analysis and research services needed by the Board to perform its regulatory functions under the Plan;

(3) Include a personnel allocation plan which identifies each position assigned to the Board as of August 19, 1991 and allocates each of these positions to one of the following categories:

Class I - Utility Ratemaking Positions
Class II - Support Positions
Class III - Consolidated Positions

Class I positions shall be designated as Board of Regulatory Commissioners positions, and shall remain under the direct control of the Board. Class I shall include all positions in the technical utility regulation units which have been assigned to the Board. All decisions concerning the assignment, hiring or termination of personnel in such positions shall reside solely with the Commissioners of the Board in accordance with uniform personnel policies and practices that shall be adopted by the Board pursuant to subsection b. of section 3 of this Order.

Class II positions shall be support positions which will be centralized within the Department under the control and supervision of the Commissioner, and shall include, but not be limited to, positions assigned to the Board of Public Utilities' Office of the Economist, Division of Audits, Office of Public Information and Bureau of Customer Assistance. These positions shall perform support staff functions that are consistent with their job title and

classification and in accordance with the provisions of the protocol; provided, however, that the Commissioner shall ensure that the services provided to the Board are adequate for the Board to carry out its lawful responsibilities in a timely manner.

Class III positions are consolidated positions and shall include but not be limited to positions assigned to the Board's Division of Administration, Division of Operations and Office of Employee Relations. Class III positions shall be assigned to the Department under the control and supervision of the Commissioner. These positions shall perform clerical and administrative support functions for both the Board and the Department in a manner that is consistent with the respective job title and classification and the protocol;

(4) Set forth procedures by which the Board shall receive services and information from the Department.

A copy of the written protocol developed pursuant to this section shall be forwarded for review to the Office of the Governor within 30 days of the effective date of this Order.

3. The Board of Regulatory Commissioners shall --

a. Make annual budget recommendations to the Governor for review and recommendation for approval in the same manner as all other proposed departmental budgets; and

b. Adopt personnel policies and practices governing the employment in Class I positions, provided that the employment policies and practices of the Board shall not be inconsistent with the employment policies and practices of the Department.

4. The Department of Personnel shall forthwith confer with the Department of Environmental Protection and Energy and the Chairman of the Board of Regulatory Commissioners and take appropriate actions to assure that job titles, classifications, assignments and other personnel-related actions are taken on an expedited basis in order to implement the objectives of the Plan.

5. The Department of the Treasury, General Services Administration, shall forthwith confer with the Department of Environmental Protection and Energy and the Chairman of the Board of Regulatory Commissioners to provide adequate office space for the Department and the Board, both in the City of Trenton and the City of Newark, in order to effectuate the objectives of the Plan. Additionally, the Office of General Services Administration shall allocate office resources as may be necessary to provide for the timely transfer of personnel, office equipment and

office furnishings among and between the various offices of the Department and the Board to implement the Plan.

6. The Department of the Treasury, Office of Management and Budget, shall forthwith confer with the Department of Environmental Protection and Energy and the Chairman of the Board of Regulatory Commissioners and take appropriate actions to assure that accounts, budget categories, classifications and other appropriate financial systems are established to effectuate the goals and provisions of the Plan.

7. This Order shall take effect on the effective date of Reorganization Plan (No. 002-1991).

Issued August 14, 1991.

EXECUTIVE ORDER No. 39

WHEREAS, The State of New Jersey is committed to assuring that all of its citizens receive equal protection under the law; and

WHEREAS, New Jersey has demonstrated this commitment through laws which protect citizens from discrimination on the basis of race, sex, creed, religious affiliation, national origin and other identifying characteristics; and

WHEREAS, These laws have yet to recognize a portion of the population that deserves equal protection under the law; and

WHEREAS, The time has come to correct this inequity and bridge this gap in our system of comprehensive civil rights protection;

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. All Executive Branch departments, agencies, boards, commissions and other bodies shall prohibit discrimination based on sexual orientation in any matter pertaining to employment by the State, including but not limited to, hiring, job appointment, promotion, tenure, recruitment and compensation.

2. No Executive Branch department, agency, board, commission or other body shall discriminate on the basis of sexual orientation against any person in the provision of any service or benefit by such department, agency, board, commission or other body.

3. The Attorney General is hereby directed to develop guidelines for implementation of this Order.

4. All Executive Branch departments, agencies, boards, commissions and other bodies are directed to cooperate fully with the Attorney General to effectuate this Executive Order and to provide the Attorney General with information, data and assistance upon request.

5. This Order shall take effect immediately.

Issued August 16, 1991.

EXECUTIVE ORDER No. 40

WHEREAS, Executive Order No. 213 (1989) established the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts to investigate, research and report on the nature and scope of any discrimination in public works procurement and construction contracts awarded by the State and recommend remedies for any discrimination; and

WHEREAS, The mission of the Study Commission would also be aided by the inclusion of the Director of the Division on Civil Rights, Department of Law and Public Safety; and

WHEREAS, The final report of the Study Commission is now due on August 14, 1991 by virtue of Executive Order No. 16; and

WHEREAS, The Study Commission is continuing to investigate and research discrimination in public works procurement and construction contracts awarded by the State, but does not anticipate that it will complete its final report by August 14, 1991;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the power vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The membership of the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts is hereby expanded to include the Director of the Division on Civil Rights, Department of Law and Public Safety.

2. The Study Commission shall report its findings and recommendations concerning past and present discrimination practices in public works procurement and construction contracts no later than June 30, 1992.

3. Except as provided in sections 1 and 2 of this Executive Order, all other terms of Executive Order No. 213 (1989), as amended by Executive Orders No. 214 (1989), No. 5 (1990) and No. 16 (1990), shall remain in full force and effect.

4. This Order shall take effect immediately.

Issued August 16, 1991.

EXECUTIVE ORDER No. 41

WHEREAS, The Governor's Commission on Eastern European and Captive Nation History was created on April 10, 1984, by Executive Order No. 69, to conduct a thorough study of public school curricula, including textbooks and all other pertinent materials dealing with the history of the people of Eastern Europe and various nationalities existing within the Soviet Union, to examine such materials for veracity and historical accuracy, and to determine whether the history of these people was fairly and accurately presented in our State's schools; and

WHEREAS, The Commission was subsequently extended by Executive Order No. 122 to July 31, 1986, and Executive Order No. 156 to December 31, 1987; and

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WHEREAS, In July 1989 the Commission issued a report of its findings and recommendations, which makes clear that there is a need to extend the life of the Commission because further work is necessary in order to fully complete its tasks; and

WHEREAS, The political, social and economic conditions in Eastern Europe have changed significantly since the Commission issued its report;

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 laws of this State, do hereby ORDER and DIRECT that:

1. There is hereby recreated a Governor's Commission on Eastern European and Captive Nation History which shall be named the Commission on Eastern European History.

2. The Commission shall consist of no more than twenty members. The members of the Commission shall be the Commissioner of Education or his designee; the Director of the Office of Ethnic Affairs within the Department of State or his designee; and 18 public members to be appointed by the Governor. The public members to be appointed shall be representatives of the various ethnic groups of Eastern Europe and of the nationalities existing within the Soviet Union, as well as historians and educators who have distinguished records of knowledge and involvement concerning the history and culture of Eastern Europe or of nationalities within the Soviet Union.

3. The Governor shall designate a chairperson and vice chairperson of the Commission from among the public members of the Commission. The chairperson, vice chairperson and public members shall serve at the pleasure of the Governor. Commission vacancies shall be filled by the Governor for the remainder of the unexpired term.

4. It shall be the duty of the Governor's Commission on Eastern European History to make recommendations as to the types of seminars that should be conducted for teachers to improve their knowledge about Eastern Europe; and to explore ways to develop alternative or supplementary teaching materials that will improve students' knowledge about Eastern Europe.

5. The Commission is authorized to call upon the Department of Education to supply such data, program reports, and other information as it deems necessary to discharge its responsibilities under this Order. The Department of Education is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such information and assistance as is necessary to accomplish the purpose of this Order and the Commission.

6. The Commission shall submit a report of its findings and recommendations to the Governor and to the State Board of Education on or before August 22, 1993.

7. This Order shall take effect immediately and shall be in effect through August 22, 1993.

Issued August 23, 1991.

EXECUTIVE ORDER No. 42

WHEREAS, The New Jersey Governor's School Program (hereinafter referred to as the "Governor's School Program") has been a successful effort to help foster excellence in education for rising high school seniors during its nine years in existence; and

WHEREAS, The New Jersey Governor's School Board of Overseers (hereinafter referred to as the "Board") was created by Executive Order #129 on February 20th, 1986 to provide a central entity authorized to advise the Governor regarding the Governor's School Program, serve as the principal oversight body for the Governor's School Program and coordinate its activities, enhance the quality of the educational programs, supervise fund-raising and expansion plans, and monitor the Governor's Schools and their expenditures of funds; and

WHEREAS, The Board has been helpful in assuring the involvement of the State's Scholars from diverse geographic, economic, and social backgrounds;

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 School Board of Overseers shall continue in existence concurrently with the operation of the Schools.

2. The Board shall be composed of: The Commissioner of Education, or his designee; The Chancellor of the Department of Higher Education, or his designee; a representative of the Governor's Office; the Presidents of the institutions of higher learning at which the Governor's Schools are located, and twenty one public members to be appointed by the Governor, who shall represent organizations and foundations committed to excellence in education, members of the private sector knowledgeable of the current academic needs of today's business market, and individuals who have personally demonstrated a willingness to provide future and present day scholars with an environment in which they may be intellectually challenged.

3. Four of the twenty-one public members shall be members of the New Jersey Legislature and shall be appointed as follows:

a. two members of the Senate, to be appointed by the Governor, each a member of a different political party, and who shall serve concurrently with their terms of office; and

b. two members of the General Assembly, to be appointed by the Governor, each a member of a different political party, and who shall serve concurrently with their terms of office.

4. In the case of the initial appointments of the remaining public members, six shall be for terms expiring one year from the date of appointment, six shall be for terms expiring two years from the date of appointment, and five shall be for terms expiring three years from the date of appointment. Thereafter, the terms of office of the remaining members shall be for three years. Each public member shall serve until a successor shall have been appointed and vacancies shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

5. Except as expressly provided herein, Executive Order #129 (Kean) shall remain in full force and effect.

6. This Order shall take effect immediately.

Issued September 26, 1991.

EXECUTIVE ORDER No. 43

WHEREAS, Property taxes doubled from 1980 to 1989; and

WHEREAS, The 1991 property tax relief program decreased or stabilized property taxes in most municipalities and counties; and

WHEREAS, Local governments still face pressure on their budgets; and

WHEREAS, There are numerous opportunities for cost savings by sharing local government services; and

WHEREAS, There exists an urgent need to improve efficiency in the providing of local government services in order that these services may continue without interruption or elimination; and

WHEREAS, Inter-local service agreements will serve to improve efficiency so as to ensure the continued vitality and viability of certain local government services;

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 Task Force on Local Partnerships (hereinafter referred to as the Task Force) to identify ways in which more inter-local service agreements can occur in New Jersey to increase the efficiency and effectiveness of the delivery of certain local government services. The Task Force should consider services delivered by municipalities, counties, and regional authorities.

2. The Task Force shall consist of the Commissioner of the Department of Community Affairs; a member of the Governor's staff; a representative of the League of Municipalities; a representative of the New Jersey Association of Counties; representatives from the private sector; and representatives from the academic community.

3. The responsibilities, functions and objectives of the Task Force shall include:

a. Reviewing existing statutes dealing with inter-local service agreements.

b. Reviewing current examples of shared local services.

c. Exploring any existing barriers to shared local services.

d. Researching legislation in other states which might serve as models for sharing local services.

e. Making recommendations for regulatory changes, legislation, or administrative actions.

4. The Governor shall appoint an executive director who will report to the Task Force and shall have access to the necessary staff in state government to complete his assignment.

5. The Task Force 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 Task Force 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 Task Force.

6. The Task Force shall periodically report to the Governor and shall submit its final report no later than June 30, 1992.

7. This Order shall take effect immediately.

Issued October 12, 1991.

EXECUTIVE ORDER No. 44

WHEREAS, Executive Order No. 137, issued in July 19, 1991, declared a limited State of Emergency in Ocean County in response to the impediment to the use of Route 9, a State highway in Lacey Township, caused by the destruction of a traffic bridge on a crucial portion of Route 9 due to severe weather conditions and substantial flooding; and

WHEREAS, The traffic bridge has been repaired and reopened with no load restrictions posted and its structural integrity has been restored;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, announce that the limited State of Emergency is hereby terminated and that Executive Order No. 37 is rescinded.

Issued October 16, 1991.

EXECUTIVE ORDER No. 45

WHEREAS, The presence of Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) present a serious public health concern for the State of New Jersey; and

WHEREAS, New Jersey ranks fifth in the nation with regard to the number of citizens infected with AIDS since 1981; and

WHEREAS, The number of AIDS cases has been steadily increasing and in November of 1990, New Jersey reported its ten-thousandth AIDS case; and

WHEREAS, As many as forty-thousand New Jerseyans may be infected with HIV; and

WHEREAS, The human suffering caused by AIDS is of continuing concern to all New Jerseyans; and

WHEREAS, New Jersey's AIDS/HIV effort needs to be better coordinated to deliver critical services efficiently and cost effectively to its citizens;

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 laws of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Governor's Advisory Council on AIDS, hereinafter referred to as the Advisory Council.

2. The Advisory Council shall consist of the Commissioner of Health or her designee; the Commissioner of Corrections or his desig-

nee; the Commissioner of Education or his designee; the Commissioner of Human Services or his designee; the Commissioner of Community Affairs or his designee; the Commissioner of Insurance or his designee; the Attorney General or his designee; the Public Advocate or his designee; the Chancellor of Higher Education or his designee; two members of the Senate to be appointed by the President thereof, no more than one of whom shall be from the same political party; two members of the General Assembly to be appointed by the Speaker thereof, no more than one of whom shall be from the same political party; and no more than thirty-five public members to be appointed by the Governor. The public members shall consist of educators, labor representatives, health care providers, advocates and persons who have tested HIV positive. The public members shall serve at the pleasure of the Governor. All members of the Advisory Council shall serve without compensation.

3. The Governor shall designate a Chairperson and Vice Chairperson from among the public members of the Advisory Council.

4. Advisory Council vacancies shall be filled by the Governor for the remainder of the unexpired term.

5. It shall be the duty of the Governor's Advisory council to:

a. Advise the Governor on policy relating to AIDS issues;

b. Monitor the Department of Health's implementation of its plan to fight AIDS in the 1990's;

c. Recommend legislation to the Governor;

d. Advise the Governor as to what measures need to be taken to coordinate State efforts concerning AIDS research and treatment;

e. Advise the executive branch concerning its relationship with voluntary agencies and private sector entities involved in AIDS-related activities, including funding sources for research; and

f. Prepare an annual report for the Governor on or before June 1 of each year, regarding its findings, and any recommendations it deems appropriate.

6. The Advisory Council shall receive administrative staff support from the Department of Health, but shall not obligate any funds of that Department or of any other department, office, division or agency of the State.

7. This Order shall take effect immediately and shall terminate on June 2, 1994.

Issued October 24, 1991.

EXECUTIVE ORDER No. 46

WHEREAS, Severe weather conditions of October 30 and 31, 1991, including 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 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.

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, Cape May, 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 member 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 suspend tolls on the Atlantic City Expressway, and to prevent ingress 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 October 31, 1991.

EXECUTIVE ORDER No. 47

WHEREAS, The quality of New Jersey products and services are essential to New Jersey's success in today's highly competitive, global economy; and

WHEREAS, Quality initiatives in all aspects of work, from manufacturing to health services, education to government services cannot only improve the economy but can contribute significantly to the quality of life in New Jersey; and

WHEREAS, The value of quality improvement processes has been clearly and repeatedly demonstrated in both the public and private sectors; and

WHEREAS, These quality programs must be encouraged, shared and adapted wherever possible to improve New Jersey's competitive stance and quality of life; and

WHEREAS, The Malcolm Baldrige National Quality Award has demonstrated that an awards program can provide a valuable means of self-assessment as well as elevate quality standards on a national level; and

WHEREAS, The fundamental success of the Malcolm Baldrige National Quality Award is attributable to an active partnership between the public and private sectors;

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 Commerce and Economic Development, or his designee, shall cooperate with Quality New Jersey Inc. in the development, administration and promotion of a New Jersey Quality Achievement Award.

2. The Commissioner of the Development of Commerce and Economic Development, in cooperation with Quality New Jersey and the Office of the Governor, shall assist in the recruitment of an Advisory Board to the New Jersey Quality Achievement Award which shall support and encourage all aspects of the award program.

3. The Commissioner of the Department of Commerce and Economic Development shall carry out the directives contained in this Order as long as the awards program remains in existence.

4. The Commissioner of the Department of Commerce and Economic Development shall implement this Executive Order, and each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commissioner of the Department of Commerce and Economic Development and to make available to him such information, personnel and assistance as necessary to accomplish the purposes of this Order.

5. This Order shall take effect immediately.

Issued November 14, 1991.

EXECUTIVE ORDER No. 48

WHEREAS, Executive Order No. 46, issued on October 31, 1991 declared a limited State of Emergency in Atlantic, Cape May, Monmouth, and Ocean Counties 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 endangered the health, safety or resources of residents;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, declare that the limited State of Emergency is hereby terminated and that Executive Order No. 46 is 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 November 19, 1991.

EXECUTIVE ORDER No. 49

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 29, 1991, 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 29, 1991.

Issued November 26, 1991.

EXECUTIVE ORDER No. 50

WHEREAS, Severe weather conditions of January 3 and 4, 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.

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, Cape May, 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, in his discretion, he 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 and 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 shall remain in effect until such time as I determine that an emergency no longer exists.

Issued January 4, 1992.

EXECUTIVE ORDER No. 51

WHEREAS, Similar weather conditions to those in Atlantic, Cape May, Monmouth and Ocean Counties, which justified the declaration of a limited State of Emergency in Executive Order No. 50 also existed in Cumberland County on January 3 and 4, 1992; and

WHEREAS, Together with the conditions which existed in Atlantic, Cape May, Monmouth and Ocean Counties, the conditions in Cumberland County constituted a disaster from a natural cause and continued to pose a threat and endangered the health, safety or resources of the residents of one or more municipality and county of this State; and which was in some parts of the State, and threatened to become, too large in scope to be handled in its entirety by normal municipal operating services; and

WHEREAS, After consultation with and upon the recommendation of State Emergency Management Personnel, on January 4, 1992, I verbally declared that a Limited State of Emergency also existed in Cumberland County on January 3 and 4, 1992, and extended Executive Order No. 50 to encompass Cumberland County; and

WHEREAS, At the time of my verbal declaration of the Limited State of Emergency in Cumberland County, I was unavailable to execute a written Executive Order to extend to Cumberland County Executive Order No. 50, which I issued earlier on January 4, 1992;

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 in the State of New Jersey, do declare and proclaim that the limited State of Emergency, which I verbally declared on January 4, 1992, extending Executive Order No. 50 to encompass Cumberland County, is hereby memorialized.

This Order shall take effect immediately and shall remain in effect until such time as I determine that an emergency no longer exists.

Issued January 10, 1992.

REORGANIZATION PLAN

(2855)

REORGANIZATION PLAN DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF A PLAN FOR THE REORGANIZATION AND INTEGRATION OF RESPONSIBILITY FOR ENERGY AND CERTAIN PUBLIC UTILITY MATTERS WITHIN THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE REDESIGNATION OF THAT DEPARTMENT AS THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY

TAKE NOTICE that on June 20, 1991, Governor James J. Florio hereby issues the following Reorganization Plan (No.002-1991) to provide for the increased coordination and integration of the State's utility, environmental and energy policies by the transfer of functions from the Board of Public Utilities now allocated in but not of the Department of Treasury to in but not of the Department of Environmental Protection.

General Statement of Purpose

Pursuant to its present statutory authority, it is the duty of the Board of Public Utilities to regulate the public utilities of the State for the provision of safe, adequate and proper service including electric, gas, solid waste, water and sewers, telecommunications and cable television. In this role, the Board regularly considers environmental matters in consultation with the Department of Environmental Protection. Additionally, the Board is charged with evaluation of the State's energy needs to ensure the continued supply of energy at reasonable prices and to avoid the potential adverse effects of an insufficient energy supply on the economy and to the State's quality of life and its environment.

The purpose of this Reorganization Plan is to create a governmental structure that will promote the statutory aims of the Board and ensure that public utilities provide safe, adequate and proper service in conjunction with the complementary statutory directives of environmental protection and energy management and conservation. In transferring existing functions of the Board of Public Utilities to in but not of the Department of Environmental

Protection, this Plan recognizes the interrelationship of energy management planning and environmental protection on the one hand and the provision of safe, adequate and proper utility service by the electric, gas, water, sewerage, and solid waste utilities on the other. This Plan will foster the efficient implementation of a coherent public policy which advances a coordinated and integrated energy conservation and planning policy.

This Plan proposes that the Commissioner and the DEP assume certain administrative responsibilities of the Board. Another significant aspect of this Plan is the merger of the solid waste regulation responsibilities of the DEP and the Board. These actions will promote the policy, regulatory and administrative integration of these two bodies, and thereby advance a coordinated approach to environmental and utility regulation and energy planning, and be more economical. This Plan also proposes that the DEP be renamed the Department of Environmental Protection and Energy to better reflect its new role, and that the Board be renamed the Board of Regulatory Commissioners.

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 with respect to each reorganization included in this Plan that each is necessary to accomplish the purposes set forth in Section 2 of that Act and will do the following:

1. It will promote more effective management of the Executive Branch and its departments because it will group similar functions within already existing agencies;
2. It will promote the better and more efficient execution of the law by integrating the State's utility, environmental and energy public policies;
3. It will group, coordinate and consolidate functions in a more consistent and practical way according to major purposes;
4. It will reduce expenditures by more closely aligning similar functions; and
5. It will eliminate duplication and overlapping of effort by consolidating certain functions and result in a savings of State funds.

THE PROVISIONS OF THE REORGANIZATION PLAN ARE AS FOLLOWS:

1.a. The Board of Public Utilities, including the functions, powers and duties assigned to it pursuant to Reorganization Plan No.

002 (1989) (C. 21 N.J.R. 1937, July 17, 1989), created pursuant to L.1911, c.195 as amended (C.48:2-1), and allocated in but not of the Department of the Treasury pursuant to L.1987, c.365, § 9 (C.52:18A-2.1), together with all of its functions, powers and duties, is continued and is transferred to and constituted as the Board of Public Utilities in but not of the Department of Environmental Protection, except as hereinafter provided.

b. The Board of Public Utilities shall remain constituted as a three-member board as now provided by law (C.48:2-1), whose final agency decisions, consistent with other applicable principles, continue to be appealed to the Appellate Division of the Superior Court. Further, except as set forth herein, the Board shall continue to exercises its substantive authority independent of the supervision of any other department or agency.

c. Pursuant to the authority conferred by N.J.S.A. 52:14C-5: (i) the President of the Board shall be redenominated as Chairperson; and (ii) in the case of a vacancy on the Board, the Governor may appoint an acting member by filing a letter evidencing the appointment with the Secretary of State, which appointment shall be effective for no more than 90 days and which shall then expire and may not be repealed, or until such time as a member is nominated, confirmed, appointed and qualified to serve, whichever is sooner.

I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will promote a closer cooperation with the Department of Environmental Protection and further the important goals of coordinating and integrating the State's utility, environmental and energy policies to ensure the provision of safe, adequate and proper service from utilities consistent with the achievement of and energy conservation goals. Also, vesting the Governor with a limited authority to name an acting member to the Board of Public Utilities, a power which already exists with respect to the Commissioner of Environmental Protection, will ensure the Board's ability to carry out its important regulatory functions without delay.

2.a. The Division of Energy Planning and conservation in the Board of Public Utilities, Reorganization Plan No. 002 (1989), paragraph I(1)(a), created pursuant to L.1977, c.146 as amended (C.52:27F-7), together with all of its functions, powers and duties, is abolished and all of its functions, powers and duties are transferred to and vested in the Department of Environmental Protection and the Commissioner thereof.

b. There shall be created in the DEP an Office of Energy Planning which shall be assigned those responsibilities the DEP Commissioner deems appropriate, and which may include any functions, powers or duties formerly assigned to the Division of Energy Planning and Conservation.

c. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Energy Planning and Conservation in the Board of Public Utilities, the same shall mean and refer to the Department of Environmental Protection and the Commissioner thereof.

I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will confer on the Department of Environmental Protection and its Commissioner the necessary authority to implement the important goals of coordinating and integrating the State's environmental, utility and energy policies. This reorganization will also promote and assist the development and utilization of cogeneration of energy and programs of energy conservation for both residential and commercial users. This Plan will provide for the collection and dissemination of energy data for the benefit of promoting the economy.

3.a. The Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Board of Public Utilities, Reorganization Plan No. 002 (1989), paragraph I(1)(a), created by L.1977, c.146, § 10 (C.52:27F-12), together with all its functions, powers and duties as set forth in L.1977, c.146, § 11 (C.52:27F-13), is continued and transferred to and constituted the Advisory Council on Energy Planning and Conservation in the Department of Environmental Protection.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Board of Public Utilities, the same shall mean and refer to the Advisory Council on Energy Planning and Conservation in the Department of Environmental Protection.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will provide the Commissioner of the Department of Environmental Protection with a body that can advise him

regarding the relationship between the State's economic, environmental and energy policies.

4. The responsibility and authority vested in the President of the Board of Public Utilities to act as chairperson of the Energy Master Plan Committee, established by L.1987, c.365, § 14 (C.52:27F-14), pursuant to Reorganization Plan No. 002 (1989), paragraph III.1., is hereby vested in the Commissioner of the Department of Environmental Protection; the responsibility and authority of the President of the Board of Public Utilities to serve as a member of the Energy Master Plan Committee is continued.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will help ensure close coordination and integration of the State's environmental and energy policies.

5. The responsibility and authority for requiring the periodic reporting by energy industries of energy information, and the analysis and reporting of same, set forth in L.1977, c.146, § 16 (C.52:27F-18), is transferred to the Department of Environmental Protection and the Commissioner thereof.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this transfer is consistent with the centralization of energy data collection and dissemination responsibilities within the Department of Environmental Protection as an aid to integrating energy, environmental and economic policy.

6. All responsibility and authority now vested in the Board of Public Utilities for the regulation of solid waste under L.1985, c.38 (C.13:1E-136 et seq.), as amended, or under any other law or regulation, including, but not limited to rate-setting is hereby continued and transferred to the Commissioner of the DEP.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will help ensure the close coordination and integration of the State's environmental and public utility policies.

7. All responsibility for budget, fiscal and personnel matters (including adoption of a Code of Ethics as required by the State Conflicts of Interests Law (C.52:13D-23) and acting as appointing authority with all of the rights thereunder) and day-to-day administration, including con-

tracting and rulemaking authority in these areas, including such authority specifically conferred on the Board by N.J.S.A. 48:2-2, 3 and 7, is hereby transferred from the Board of Public Utilities to the Commissioner of the Department of Environmental Protection; except that (i) the Board shall make annual budget recommendations to the Director of the Division of Budget and Accounting; (ii) the Board will adopt and recommend a Code of Ethics required by the Conflicts Law to the Commissioner for his consideration and approval and transmittal to the Executive Commission on Ethical Standards with such modifications, if any, as the Commissioner deems appropriate; (iii) the Board will be responsible for the allocation of its budget and the assignment of Board personnel; and (iv) BPU employees for payroll, administrative and other personnel related practices shall remain and continue to be categorized as BPU employees. Upon the request of the Board, the DEP Commissioner shall make available Department resources to the Board to carry out its responsibilities.

I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this consolidation of budget and administrative authority in the DEP Commissioner, to be exercised in consultation with the Board as set forth above, will result in increased and more effective management of the Board's operations in light of the transfer of the Board to the DEP. The shifting of administrative functions from the Board will also permit the Board to focus on its policy and regulatory responsibilities.

8.a. The Board of Public Utilities is denominated the Board of Regulatory Commissioners. I find that this name change, authorized by N.J.S.A. 52:14C-5, will better reflect the responsibilities of the Board and its allocation within a renamed Department of Environmental Protection and Energy, infra, paragraph 9.

b. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, reference is made to the entities recited in paragraphs 1 to 7 above to the board of Public Utilities and the President thereof, the same shall mean and refer to the Board of Regulatory Commissioners and the Chairperson thereof.

9.a. The name of the Department of Environmental Protection is denominated the Department of Environmental Protection and Energy. I find this name change, authorized by N.J.S.A. 52:14C-5, will better reflect the Department's responsibilities for energy and

public utility matters and better inform the public of the Department's role.

b. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, reference is made to the entities recited in paragraph 1 to 7 above to the Department of Environmental Protection or the Commissioner thereof, the same shall mean and refer to the Department of Environmental Protection and Energy or the Commissioner thereof.

10. All transfers directed by this Plan shall be made in accordance with the "State Agency Transfer Act," L.1971, c.375 (C.52:14D-1 et seq.).

11. 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 on June 20, 1991 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 August 19, 1991 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 August 19, 1991, 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 June 20, 1991.
Effective August 19, 1991.

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Medicaid, public assistance, $259,014,000, Ch.476.
Medical assistance recipients, $863,000, Ch.2.
Various programs, $100,000,000 general fund; $22,931,000 casino revenue fund; $232,306,000 federal funds, Ch.144.
Labor, Department:
Sheltered workshop support, job development, $1,500,000, Ch.518.
Unemployment, job training programs, $8,904,000, Ch.141.
Military and Veterans' Affairs, Department, Paramus Veterans' Memorial Home, $367,000, Ch.72.
New Jersey Historic Trust from "Cultural Centers and Historic Preservation Fund," for historic preservation projects, $4,534,277, Ch.468.
New Jersey Economic Development Authority, from Community Development Bond Fund, urban industrial parks, $10,000,000, Ch.197.
New Jersey Public Broadcasting Authority transmitters, $743,000, Ch.338.
New Jersey Redistricting Commission, $250,000, Ch.510.
Orthotics and Prosthetics Board of Examiners, $10,000, Ch.512.
"Petroleum Overcharge Reimbursement Fund," certain appropriations cancelled, to Board of Public Utilities, $1,500,000, to New Jersey Transit Corporation, $33,900,000, Ch.514.
Sewerage infrastructure improvements, State facilities, certain; from "Water Conservation Fund," $2,843,360; from "Clean Waters Fund," $9,753,818; appropriations cancelled, certain, Ch.326.

APPROPRIATIONS (Continued)

State Agriculture Development Committee:
From "1989 Farmland Preservation Fund," $20,500,000, Ch.234.
From "Open Space Preservation Bond Act of 1989," $1,040,000, Ch. 321.
State Council on the Arts, cultural center development, $2,237,893, Ch.251.
Supplemental appropriation, General Fund, $46,982,000, from Health Care Cost Reduction Fund, $3,800,000, from Petroleum Overcharge Reimbursement Fund, $13,000,000, from federal funds, $46,000,000, for various purposes, Ch.517.
"Supplemental Municipal Property Tax Relief Act," $360,000,000, Ch.63.
Transportation Department:
Delaware and Raritan Canal Transportation Safety Study Commission, $5,000, Ch.344.
From "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989:"
acquisition of railroad rights-of-way, $10,000,000, Ch.224.
bridge repair projects, $90,000,000, Ch.271.
From New Jersey Transportation Trust Fund Authority, various projects, $200,000,000, Ch.40.
Wastewater treatment systems projects:
From New Jersey Wastewater Treatment Trust, $85,000,000, Ch.325.
Loans to local government units to finance construction, Ch.324.

AUTHORITIES

Casino Reinvestment Development Authority, membership; changed, amends C.5:12-153 et al., Ch.219.
Delaware River Port Authority:
Additional powers, amends R.S.32:3-2 et al., Ch.515.
New Jersey gubernatorial veto power; provided, C.32:3-4a et seq., repeals C.32:3-4.1 et seq., Ch.516.
Open public meetings; required, C.32:3-4.5 et seq., Ch.400.
Municipal utilities authorities, appointment of members by mayors, certain; authorized, amends C.40:14B-4 et al., Ch.10.
New Jersey Economic Development Authority, two additional public members; public member as chairperson, permitted, amends C.34:1B-4, Ch.392.
New Jersey Sports and Exposition Authority, projects, debt financing, certain; authorized, C.5:10-14.3 et al., amends C.5:10-3 et al., repeals C.52:27H-38 et al., Ch.375.

AUTHORITIES (Continued)
Passaic Valley sewerage commissioners, membership; increased, residency, amends R.S.58:14-3, Ch.145.
Port Authority of New York and New Jersey, open public meetings; required, C.32:1-6.1 et seq., Ch.395.
"South Jersey Transportation Authority Act," C.27:25A-1 et al., repeals C.27:12C-1 et al., Ch.252.
Vietnam Veterans' Memorial, maintenance by New Jersey Highway Authority; authorized, C.27:12B-5.3 et seq., Ch.70.

AVIATION
Airport safety zones; established, notice to property buyers; provided, C.6:1-85.1 et seq., amends C.6:1-80 et al., Ch.445.

BANKING
Business loans, certain, statute of frauds, applicable, amends R.S.25:1-5, Ch.86.
Cancellation of mortgage after satisfaction; penalty, amends C.46:18-11.2 et seq., Ch.289.
Community Financial Services Advisory Board, established; community reinvestment reports, public; C.17:16Q-1 et seq., Ch.294.
Credit involuntary unemployment insurance, sale, certain; permitted, amends C.17:11A-49 et al., Ch.118.
Fiduciary accounts, banks, certain, investment company securities, certain; permitted, amends N.J.S.3B:14-23, Ch.503.
Foreign banks, associations, back office operations; regulated, amends C.17:9A-316 et al., Ch.74.
Mortgage escrow accounts, rights, duties of mortgagor, mortgagee; clarified, amends C.17:16F-23 et al., Ch.111.
Mortgage loans, modification, priority of original lien; preserved, amends C.46:9-8.2, Ch.364.
New Jersey Consumer Checking Account; required, C.17:16N-1 et seq., Ch.210.
Power of attorney to perform transactions, authority of agent; established, C.46:2B-10 et seq., Ch.95.
Savings and loan associations, savings banks, conversions, certain; permitted, C.17:6M-1 et seq., amends C.17:9A-333, Ch.42.
Savings banks and holding companies; interstate banking, certain, amends C.17:9A-370, Ch.315.

BONDS
"Garden State Savings Act of 1991," C.18A:71-87 et seq., Ch.272.

CHILDREN
Bicycle operators, passengers, helmets; required, C.39:4-10.1 et seq., Ch.465.
"Child Placement Bill of Rights Act," C.9:6B-1 et seq., Ch.290.
Family day care homes, certain, permitted location, certificate of registration, record checks of providers, C.40:55D-66.5a et al., amends C.30:5B-18 et al., Ch.278.
Foster care, placement, repeated; limited, C.30:4C-53.1 et seq., Ch.448.

CIVIL ACTIONS
Carpets, unclaimed at cleaning shop, sale, disposition; provided, amends C.2A:44-19.2, Ch.480.
Immunity, firing range owners, certain, noise, C.13:1G-21.1 et seq., Ch.391.
Immunity, for practitioners of psychology, psychiatry, medicine, nursing, clinical social work, marriage counseling; patient's acts, certain, C.2A:62A-16 et seq., Ch.270.
Limitations period for actions commenced by State, governmental agencies, uniform; tolling the period for absent defendants, certain, C.2A:14-1.2, amends N.J.S.2A:14-22, Ch.387.
Motor bus insurance, medical expense benefits coverage, verbal tort threshold for lawsuits, certain; required, C.17:28-1.5 et seq., amends C.39:6A-4.6, Ch.154.
"New Jersey Roller Skating Rink Safety and Fair Liability Act," C.5:14-1 et seq., Ch.28.
Recreational vehicles, certain, property owners' liability for operation on, limitations; clarified, C.2A:42A-5.1 et al., amends C.2A:42A-2 et al., Ch.496.

CIVIL RIGHTS
Affectional, sexual orientation, discrimination against persons based upon; prohibited, amends C.10:5-3 et al., Ch.519.
AIDS, HIV infected persons, discrimination; prohibited as against "handicapped," amends C.10:5-5, Ch.493.

COLLEGES AND UNIVERSITIES
Alcohol-free student social activities required, State Board of Higher Education, memorialized, J.R.7.
Employees, TPAF members; State contributions to pension, social security, amends N.J.S.18A:66-33 et al., Ch.246.
Financial aid recipients, parents, guardian move out-of-State, eligibility; continued, C.18A:71-15.5, Ch.38.
"Garden State Savings Act of 1991," C.18A:71-87 et seq., Ch.272.

COLLEGES AND UNIVERSITIES (Continued)
Governor's Teaching Scholars Loan Program, loan redemption, teaching options; expanded, amends C.18A:71-81, Ch.467.
Millicent Fenwick Research Professorship at Monmouth College; established, C.18A:72L-1 et seq., Ch.435.
Minority Undergraduate Fellowship Program; establishment, C.18A:72M-1 et seq., Ch.485.
New Jersey College Loans to Assist State Students (NJ CLASS) Loan Program; established, C.18A:72-34 et seq., Ch.268.
"Pledge's Bill of Rights," development by Chancellor of Higher Education, C.18A:3-24 et seq., Ch.388.
Student Assistance Board, student members, eligibility of freshman, maximum term; increased, amends C.18A:71-15.1, Ch.500.
Students called to active duty during "Desert Shield" or "Desert Storm," grading, fees, options; provided, Ch.167.
"Student's Statement of Rights and Responsibilities," development, Chancellor of Higher Education; memorialized, J.R.3.
Tuition assistance programs, certain, transfer from Department of Higher Education to Department of Military and Veterans' Affairs, C.38A:3-2d1, amends C.18A:71-63 et al., Ch.273.
Tuition-free enrollment for members of National Guard, spouses, children, certain, in public institutions of higher education; C.18A:71-96 et seq., Ch. 296.

COMMERCE
Building subcontractors, certain, prompt payment; required, C.2A:30A-1 et seq., Ch.133.
Limited partnerships, certificates filing with Secretary of State, C.42:2A-14.1, repeals P.L.1984, c.245, s.1, Ch.472.
Motor vehicle franchises, relocation, limits, amends C.56:10-20, Ch.460.
Motor vehicle franchisors, franchisees; termination, cancellation rights, responsibilities, C.56:10-13.1 et seq., amends C.56:10-13 et al., Ch.459.
Motor vehicle sales, used, conducted through new car franchisees; required, amends C.56:10-26, Ch.409.
Negotiable instruments, variable interest rate, amends N.J.S.12A:3-106, Ch.355.

COMMISSIONS
Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans, transferred to Department of Military and Veterans' Affairs, amends P.L.1987, c.323, Ch.132.

COMMISSIONS (Continued)
Commission on Racism, Racial Violence and Religious Violence; created, C.52:9DD-1 et seq., J.R.2.
Delaware and Raritan Canal Transportation Safety Study Commission; created, C.13:13-3.1 et seq., amends R.S.13:13-3 et al., Ch.344.
New Jersey Commission on Holocaust Education; created, C.18A:4A-1 et seq., Ch.193.
New Jersey Redistricting Commission; established, C.19:46-6 et seq., repeals C.19:46-4 et seq., Ch.510.
Pension and Health Benefits Review Commission; established, C.52:9HH-1 et seq., Ch.382.
State Commission on County and Municipal Government, County and Municipal Government Study Commission reconstituted as, C.40A:1A-1 et seq., amends P.L.1966, c.28, Ch.165.

COMMUNICATIONS
Information services, certain; regulated, C.56:8-54 et seq., Ch.416.
Telecommunications carriers, local exchange; alternative forms of regulation, C.48:2-21.16 et seq., Ch.428.

CONFLICTS OF INTEREST
State officers, employees, State contracts, certain; authorized, C.52:13D-19.1 et seq., Ch.254.

CONSTITUTION, STATE, AMENDMENTS
Crime victims, constitutionally guaranteed rights; provided, Art.I, para.22, adopted.

CONSUMER AFFAIRS
Bicycles, helmet use, promotion notices, required, C.39:4-14.4a et al., Ch.323.
Consumer fraud violations; monetary penalties increased; amends C.56:8-13, Ch.332.
County, municipal consumer affairs offices, actions in municipal court; clarified, amends C.56:8-14.1, Ch.149.
Credit card transactions, forms, certain; required, C.56:11-24 et seq., Ch.482.
Credit involuntary unemployment insurance, sale, certain; permitted, amends C.17:11A-49 et al., Ch.118.
Information services, certain; regulated, C.56:8-54 et seq., Ch.416.
Lighters, offered for sale, child resistant; required, C.51:13-1 et seq., Ch.487.
Merchant's use of credit card information, limited, check acceptance, C.56:11-20 et seq., Ch. 281.

CONSUMER AFFAIRS (Continued)
Motor vehicle "lemon law," vehicles purchased or leased in New Jersey, applicability, amends C.56:12-30, Ch.130.
Toy related injuries, deaths, reports by physicians; required, C.52:17B-124.1, Ch.250.
Toy safety; notice of toy defects, hazards, by dealer; dealer inspection program; C.56:8-49 et seq., Ch.295.

CORPORATIONS
Corporate filings, Secretary of State, fees; changed, amends N.J.S.14A:15-2, Ch.247.
Lutheran Synod, board of trustees, membership; increased, amends C.16:5-5, Ch.69.

CORRECTIONS
Corrections officers, qualifications for appointment; established, C.30:4-3.11 et al., Ch.110.

COUNTIES
Alcoholic Beverage Control Enforcement Bureau inspectors, Marine Law Enforcement Bureau officers, certain, appointment as police, sheriff's officers; permitted, Ch.204.
Annual audit, completion time extended, amends N.J.S.40A:5-4, Ch.216.
Boards of taxation, certain, membership; increased, amends R.S.54:3-2, Ch.203.
Checks returned for insufficient funds; service charge, county imposition, C.40:5-19, Ch.339.
Convention, athletic facilities, new, feasibility study by Camden, Gloucester improvement authorities, Ch.242.
Corrections officers, qualifications for appointment; established, C.30:4-3.11 et al., Ch.110.
County clerk, appointment of second deputy clerk, confidential aide; permitted, amends N.J.S.11A:3-5 et al., Ch.494.
County manager, terms of employment, amends C.40:41A-47, Ch.71.
Fees, certain, prepayment, acceptance by State of purchase orders for; permitted, C.40A:5-16.4, Ch.174.
Fire marshal, term; three years, amends N.J.S.40A:14-1, Ch.60.
Investments, mutual funds, certain; permitted, amends C.40A:5-15.1 et al., Ch.458.
Liability, civil, for court-ordered community service; immunity, C.59:7A-1, Ch.56.

COUNTIES (Continued)
"Local Government Ethics Law," C.40A:9-22.1 et seq., repeals C.40:23-6.51, Ch.29.
"Municipal and County Sewerage Act," N.J.S.40A:26A-1 et seq., repeals C.40:23-19.1 et al., Ch.53.
9-1-1 locatable mailing address system for Burlington County, pilot program; established, C.40:23-47 et seq., Ch.265.
Public works managers, certification; required, C.40A:9-154.6a et seq., Ch.258.
Tax administrator, qualifications; amends R.S.54:3-7 et al., Ch.363.
Term of appointment, county governing body member to other public entity, C.40A:9-23.1, Ch.291.
Undersheriff; appointment of fourth in certain counties, amends N.J.S.40A:9-116, Ch.330.

COURTS
Court system, organization, administration; revised, N.J.S.2B:1-1 et al., repeals N.J.S.2A:1-1 et al., Ch.119.
Filing fees, increased; administration, responsibilities clarified, C.22A:2-37.1 et al., amends N.J.S.2B:2-1 et al., repeals N.J.S.2A:18-65 et al., Ch.177.
"Municipal court clerk," title changed to "municipal court administrator," C.2A:8-13a, Ch.98.
Municipal, suspension of driving privileges for certain defendants; permitted, C.2A:8-27.1, Ch. 240.
Statutory references to courts; corrected, amends C.2A:1B-1 et al., repeals N.J.S.2A:8-11 et al., Ch.91.

CRIMES AND OFFENSES
Aggravated arson, certain, mandatory sentence of imprisonment, amends N.J.S.2C:17-1, Ch.498.
Assault, death by vessel; penalties, amends N.J.S.2C:11-5 et al., Ch.237.
Automobile theft:
Employing juvenile for; second degree crime, C.2C:20-17, Ch.81.
Leader of auto theft trafficking network; second degree crime, C.2C:20-18, Ch.82.
Penalties; increased, trying of juveniles charged as adults; permitted, C.2C:20-2.1 et seq., amends C.2A:4A-26, Ch.83.
Credit card offenses, certain, third degree crime, amends N.J.S.2C:21-6, Ch.122.
Fleeing from or attempting to elude police by motor vehicle causing death or injury; penalties, amends N.J.S.2C:11-4 et al., Ch.341.
Firearm, loaded, leaving within easy access of a minor; penalties, C.2C:58-15 et seq., Ch.397.

CRIMES AND OFFENSES (Continued)
Handcuffs, sales, possession, certain; offense created, C.2C:39-9.2, amends N.J.S.2C:39-3, Ch.437.
Interception of police, fire or emergency messages, certain, possession of radio, certain; crimes, C.2C:33-21 et seq., repeals C.2A:127-4, Ch.432.
Loitering, certain, disorderly persons offense; created, C.2C:33-2.1, Ch.383.
Maintenance of facility for sale of stolen automobiles, parts; second degree crime, C.2C:20-16, Ch.80.
"New Jersey Anti-Piracy Act," sound recordings, C.2C:21-21, repeals N.J.S.2A:111-52 et seq., Ch.125.
Nonindictable offenses, indigents, assignment of counsel, voluntary county or municipal costs, certain; lien established, amends C.40:6A-1, Ch.337.
Parole, Intensive Supervision Program, absconding from, crime; established, amends N.J.S.2C:29-5, Ch.34.
Prostitution, law; revised, amends N.J.S.2C:34-1, Ch.211.
Railroad crossing warning signals; vandalization, penalties, C.2C:33-14.1, Ch.335.
Traffic signs or signals, vandalization or removal; penalties, amends N.J.S.2C:17-3 and C.39:4-183.5, Ch.336.
Weapons, possession by criminals, certain; prohibited, amends C.2C:39-7, Ch.436.
Witnesses, informants, threats, certain, second degree crime, amends C.2C:28-5, Ch.33.

CRIMINAL PROCEDURE
Crime victims, compensation funding; increased, collection procedures; organizational funding for victims and witnesses; C.2C:46-4.1 et al., amends N.J.S.2C:1-2 et al., Ch.329.
Domestic violence cases, bail procedures, certain; required, amends C.2C:25-10, Ch.103.
Juvenile, certain, tried as an adult for death by auto while under influence of liquor, drugs, amends C.2A:4A-26, Ch.30.
"Prevention of Domestic Violence Act of 1991," C.2C:25-17 et seq., repeals C.2C:25-1 et al., Ch.261.
Strip and body cavity searches, procedures, regulations; amends C.2A:161A-1 et al., Ch.305.
Victims' statements about impact of crime, submittal to court, prosecutor; permitted, amends C.52:4B-36 et al., Ch.44.

New Jersey State Library

DOMESTIC RELATIONS
"Child Placement Bill of Rights Act," C.9:6B-1 et seq., Ch.290.
Marriages, solemnization by county surrogate; permitted, amends R.S.37:1-13, Ch.404.
Parental rights, termination, grounds, procedure; changed, C.30:4C-12.1 et al., amends C.30:4C-11 et al., Ch.275.
"Prevention of Domestic Violence Act of 1991," C.2C:25-17 et seq., repeals C.2C:25-1 et al., Ch.261.

ELECTIONS
Congressional districts, commission to establish, C.19:46-6 et seq., repeals C.19:46-4 et seq., Ch.510.
District election board workers, use of two shifts on election days; permitted, C.19:6-9.1, Ch.102.
Gubernatorial debates, sponsorship, news media and correspondents, authorized, amends C.19:44A-46, Ch.317.
Police assigned to district boards during election; conduct regulated, C.19:6-15.1, amends R.S.19:6-16, Ch.306.
Polling places, accessibility to elderly, handicapped; provided, C.19:8-3.1 et al., amends R.S.19:8-6 et al., Ch.429.
Voter challenges, grounds, remedies; revised, C.19:15-18.1 et al., amends R.S.19:15-18 et al., Ch.249.
Voter registration:
  Additional public agencies; authorized, C.39:2-3.1 et al., amends C.19:31-6.3 and C.19:31-6.4, Ch.318.
  Information, maintenance on equipment, counties, certain; required, C.19:31-3.1, Ch.504.
Voter registration lists, amount charged for copy; limited, amends C.19:31-18.1, Ch.113.

ENVIRONMENT
Cleanup, removal costs, petroleum discharges, certain, limited immunity from liability, C.58:10-23.11g3, Ch.260.
"Dry Cell Battery Management Act," C.13:1E-99.59 et seq., amends C.13:1E-99.13, Ch.521.
Emergency response actions, certain, recovery of costs from New Jersey Spill Compensation Fund by local units, C.58:10-23.11k1, amends C.58:10-23.11b et al., Ch.85.
"Environmental Fee Accountability Act of 1991," C.52:27B-20.1 et seq., Ch.426.
Environmental health laws, enforcement by certified local health agencies; revised, C.26:3A2-34 et seq., amends C.26:3A2-22 et al., Ch.99.

ENVIRONMENT (Continued)
Environmental Protection, Department:
Applications for permits, certain, checklist provided to applicants; required, conferences; provided, C.13:1E-101 et seq., Ch.421.
Applications for permits, certain, report to Legislature of overload, backlog; required, C.13:1D-119, Ch.424.
Applications for permits, classification system, guidelines, schedules, establishment; required, C.13:1D-105 et seq., Ch.423.
Continuing education seminars, for persons involved in preparing permit applications; required, C.13:1D-116 et seq., Ch.419.
Employees, certain, employment; regulated, C.13:1D-13.1 et seq., amends C.13:1B-15.100, Ch.415.
Information on permit applications, certain, preparation, provision to Legislature; required, C.13:1D-114 et seq., Ch.417.
Permit application deficiencies, written notice to applicant; required, C.13:1D-110, Ch.418.
Program fees, reporting, accounting, auditing; required, C.13:1D-9.1 et al., Ch.427.
Technical manuals for filing, review of applications for permits, certain, preparation; required, C.13:1D-111 et seq., Ch.422.
Hazardous substance discharges, liability, financial responsibility, C.58:10-23.11g2, amends C.58:10-23.11g et al., Ch.58.
Hazardous substances, cleanup, removal, right of contribution; provided, amends C.58:10-23.11f, Ch.372.
"Hazardous Substance Response Action Contractors Indemnification Act," C.58:10-23.11f8 et seq., amends C.58:10-23.11a et al., repeals P.L.1986, c.59, s.5, Ch.373.
Hazardous waste cleanup by municipality, industrial property acquired by tax sale, lien against former property owners, certain; provided, C.13:1K-9.1 et seq., Ch.238.
Low-level radioactive waste generators, imposition of fees; C.13:1E-181.1 et seq., amends C.13:1E-179 et al., Ch.166.
New Jersey Council on Environmental Quality; created, C.13:1DD-1 et seq., Ch.450.
"Pinelands Development Credit Bank Act," expiration date; extended, amends C.13:18A-48, Ch.24.
"Pollution Prevention Act," C.13:1D-35 et seq., amends C.34:5A-3 et al., Ch.235.
Residential home heating oil tank fill pipes, caps, coloring, labeling; required, C.51:9-9.1, Ch.163.
Solid, hazardous waste industries, licensing program; revised, C.13:1E-128.1 et al., amends C.13:1E-127 et al., Ch.269.

ENVIRONMENT (Continued)
Summons for water pollution violations, issuance; authorized, penalties, hearings, appeals; regulated, C.58:10A-10.4 et seq., Ch.8.
"Toxic Packaging Reduction Act," C.13:1E-99.44 et seq., Ch.520.
Underground storage tanks:
Deadline for installation of monitoring systems; extended, amends C.58:10A-23 et al., Ch.1.
Services, providers, certain, certification; required, C.58:10A-24.1 et seq., Ch.123.
Water resources development plan, DEP preparation; required, Ch.484.
Water Supply Remediation subaccount; established, C.58:12A-22.2 et seq., amends C.58:12A-22, Ch.456.
Worker and Community Right to Know Fund, fees exempted, nonprofit, nonpublic schools, colleges, universities, amends C.34:5A-3, Ch.25.

ESTATES
Funeral trusts, prepaid, certain, exemption from revocability requirement; provided, C.2A:102-16.1 et seq., amends C.3B-11-16, Ch.502.
Parentage, determination for purposes of intestate succession, amends N.J.S.3B:5-10, Ch.22.
Perpetuities, uniform rule against; C.46:2F-1 et seq., Ch.192.
"Revised Uniform Principal and Income Act," N.J.S.3B:19A-1 et seq., repeals N.J.S.3B:19-1 et seq., Ch.257.
Wills, self-proving; clarified, amends N.J.S.3B:3-4, Ch. 255.

EXECUTIVE ORDERS
Christopher J. Jackman; death commemorated, No.26.
Commission on Eastern European History; created, No.41.
Correctional facilities overcrowding, continuing state of emergency declared, No.24.
Governor's Advisory Council on AIDS; created, No.45.
Governor's Cabinet Action Group on Juvenile Justice; created, No.27.
Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities; reestablished, No.30.
Governor's School Board of Overseers; continued, No.42.
Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts, membership; expanded, final report extended, No.40.
Governor's Study Group on the Bicentennial of the Polish Constitution; created, No.31.

EXECUTIVE ORDERS (Continued)
Governor's Task Force on Local Partnerships; established, No.43.
Hudson River Waterfront Development Committee, Commissioner of Commerce and Economic Development designated chairperson, amends No.152, No.32.
New Jersey - Israel Commission; continued, No.35.
New Jersey Quality Achievement Award, development, administration, promotion; directed, No.47.
Printing Control Office; established, No.36.
Reorganization plan (No.002-1991), facilitation of implementation; directed, No.38.
Sexual orientation, discrimination based on by Executive Branch agencies; prohibited, No.39.
Source Reduction and Recycling Program for waste materials; directed for State agencies, No.34.
State Council on Vocational Education; established, Ch.28.
State employees, November 29, 1991 granted as a day off, No.49.
State employees on active duty during Middle East crisis, seniority, salary, benefits; maintained, No.25.
State of Emergency, limited, Ocean County, destruction of Route 9 traffic bridge, No.37; terminated, No.44.
State of Emergency, limited, severe weather conditions, Atlantic, Cape May, Monmouth, Ocean counties, No.46; terminated, No.48; declared, No.50.
State of Emergency, limited, severe weather conditions, Cumberland County, No.51.
State-owned vehicles, management, control through Central Motor Pool, No.33.
State residents on active duty in Operation Desert Shield/Storm, eligibility for veterans' entitlements; provided, No.29.

EXPLOSIVES
Fireworks, sale, transportation; revised, C.21:2-36 et seq., amends R.S.21:2-15 et al., repeals R.S.21:2-31 et seq., Ch.55.

FEDERAL RELATIONS
Bulk mail, recycling by Postal Service; Congress, President, memorialized, J.R.4.

FIRE SAFETY
Buildings, truss construction, identifying emblems; required, C.52:27D-198.4, Ch.188.
Burn injuries, certain, reporting; required, central burn patient arson registry; established, C.2A:62A-18 et al., amends N.J.S.2C:58-8, Ch.433.

FIRE SAFETY (Continued)
Emergency sirens, minimum distance from schools, playgrounds; required, C.13:1G-4.2, Ch.475.
Fire safety commission, membership; increased, amends C.52:27D-25e, Ch.399.
Firefighter deaths, injuries, investigation by Bureau of Fire Safety; required, amends C.52:17D-25d et al., Ch.186.
Life insurance provided by fire district to volunteer firefighters, type, amount; expanded, amends N.J.S.40A:14-37, Ch.398.
Lighters, offered for sale, child resistant; required, C.51:13-1 et seq., Ch.487.
Local government facilities, inspection by local fire inspectors; clarified, amends C.52:27D-213, Ch.222.
Smoke detectors, use in residential structures, certain; required, C.52:27D-198.1 et seq., Ch.92.
Violations, certain; penalties increased, C.52:27D-198.5, amends C.52:27D-210, Ch.489.

FIRST AID AND RESCUE SQUADS
First Aid Week, established; First Aid Volunteer of the Year, award; created, C.36:2-26, Ch.367.

FISH, GAME AND WILDLIFE
Bluefish regulations, certain; urges State's rights, J.R.6.
Fees, fish and game licenses, increase; one time adjustment, amends C.23:3-1a et al., Ch.286.
Striped bass, sales, certain; prohibited, C.23:5-45.3, amends C.23:5-45.1, Ch.43.

FISH, GAME AND WILDLIFE (Continued)
Surf clams, taking; regulated, C.23:3-12.1, amends C.50:2-6.1 et seq., Ch.79.
Wild birds, sales, certain; prohibited, penalties, amends R.S.23:4-50, Ch.253.

GAMES AND GAMBLING
Casinos, operation, regulation; laws revised, C.5:12-5.1 et al., amends C.5:12-1 et al., repeals C.5:12-48 et al., Ch.182.
Lottery prizes, certain; use to repay public assistance overpayments, child support arrearages, C.5:9-13.1 et seq., Ch.384.
Racetracks, certain, participation in interstate common pools for simulcast horse races; permitted, C.5:5-122 et seq., amends C.5:5-111 et al., Ch.411.

HANDICAPPED PERSONS
Handicapped parking enforcement units, municipal, establishment; permitted, C.39:4-197.9 et seq., Ch.442.
Medicaid program, payment of premiums for disabled persons, certain; provided, time limit for disposal of resources; changed, amends C.30:4D-3 et al., Ch.20.
"Older and Walking Impaired Persons Crossing" areas, designation; authorized, C.39:4-183.1b, Ch.120.
Parking privilege, handicap certification by podiatrist; permitted, amends C.39:4-204 et al., Ch.49.
Parking zone in front of residence, requirements; changed, amends C.39:4-197.6, Ch.406.
Premises occupied by developmentally disabled person, removal of tenant, certain, authorized, amends C.2A:18-61.1, Ch.307.

HEALTH
"Alzheimer's Disease Awareness Month;" designated, November, C.36:2-23 et seq., Ch.319.
American Indians, certain, birth certificates, use of tribal records for correction; permitted, amends R.S.26:8-49, Ch.359.
Blood banks, licensing fees; based on services provided, amends C.26:2A-4, Ch.461.
"Blood Safety Act of 1991," C.26:2A-13 et seq., Ch.131.
"Governor's Lyme Disease Advisory Council," C.26:2P-1 et seq., Ch.277.
"Health Care Cost Reduction Act," C.26:2H-18.24 et al., amends C.26:2H-1 et al., repeals C.26:2H-3 et al., Ch.187.
Mammograms, Medicaid coverage; required, amends C.30:4D-6, Ch.371.
"New Jersey Advance Directives for Health Care Act," C.26:2H-53 et al., Ch.201.
"New Jersey Declaration of Death Act," C.26:6A-1 et seq., Ch.90.
New Jersey Office on Minority Health; established, C.26:2-160 et seq., Ch.401.
Nurse midwives, certified, prescription of certain medications; permitted, C.45:10-17 et seq., amends R.S.45:14-13 et seq., Ch.97.
Ordinances, codes, local board adoption, procedure; changed, amends R.S.26:3-66, Ch.36.
Regional health commissions, representation; changed, amends C.26:3-85, Ch.127.

HIGHWAYS, ROADS AND BRIDGES
"Lovelandtown Bridge," bridge spanning Point Pleasant Canal; designated, J.R.1.

HIGHWAYS, ROADS AND BRIDGES (Continued)
New Jersey Turnpike, project addition, extension, Route 92 freeway; authorized, C.27:23-23.8, repeals P.L.1938, c.345 et al., Ch.474.
"Roadside Sign Control and Outdoor Advertising Act," C.27:5-5 et seq., repeals R.S.27:5-1 et al., Ch.413.
Turnpike extension, North, I-95 portion, authorized, C.27:23-23a et al., amends R.S.27:7-21 et al., Ch.183.

HISTORICAL AFFAIRS
"Historic Preservation Revolving Loan Fund;" created, C.13:1B-15.115a et seq., Ch.41.

HOLIDAYS
"Holocaust Remembrance Day," annual; designated, C.36:2-22, J.R.5.

HOTELS
Inspection fees, hotels, multiple dwellings; changed, C.55:13A-26.1 et seq., amends C.55:13A-13, Ch.179.
Room notices, fire or smoke procedures to be followed; required, C.55:13A-7.7, Ch.218.

HOUSING
Bonds to aid redevelopment projects, issuance before plan approval; permitted, amends C.55:14B-4.1, Ch.32.
Development and Demonstration Grant Fund, inspection fees, penalties, certain, C.55:13A-26.1 and 55:13A-26.2, Ch.179.
Fire retardant plywood sheathing, defects, remedy; provided, C.46:3B-13 et seq., amends C.46:3B-2 et al., Ch.202.
Housing projects, publicly assisted, certain, register, lobbying activity reported, certain; required, C.52:27D-307.1 et seq., Ch.479.
Interstate Compact on Industrialized/Modular Buildings; ratified, C.32:33-1 et seq., Ch.457.
Mobile home parks, sales, certain. mobile home owners given right of first refusal, C.46:8C-10 et seq., Ch.483.
Multiple dwellings, use of indirect apportionment of heating costs; regulated, C.55:13A-7.8 et seq., Ch.453.
Property tax exemption, public housing in transition to private ownership, continuation of eligibility; clarified, amends R.S.55:14A-20, Ch.508.
Public housing projects, certain, transition to private ownership, tax exemption; permitted, amends R.S.55:14A-19 et seq., Ch.225.
Relocation payments to persons displaced by government programs, conformance to federal standards; required, C.20:4-6.1, Ch.5.

HUMAN SERVICES
Commodities and Services Council, membership; changed, C.30:6-33, amends C.30:6-24 et al., Ch.147.
"Family Development Act," C.44:10-19 et seq., amends C.44:8-114 et al., Ch.523.
Medicaid coverage; children between ages 6-19, certain; amends C.30:4D-3, Ch.328.
Medicaid program, payment of premiums for disabled persons, certain; provided, time limit for disposal of resources; changed, amends C.30:4D-3 et al., Ch.20.
"Pharmaceutical Assistance to the Aged and Disabled" program, income eligibility limits; increased, amends C.30:4D-21, Ch.84.
Psychiatric inpatients, certain, rights; guaranteed, C.30:4-27.11a et al., Ch.233.
Social services information hotline; established, C.30:1-1.1, Ch.524.

INSURANCE
Fraud, fraudulent applications and statements of residence, included, amends C.17:33A-3 et al., Ch.331.
Health insurance benefits for mammograms, required for contracts and policies, C.17:48-6g et al., Ch.279.
Life, health, insurable interests; entities, certain, C.17B:24-1.1, repeals N.J.S.17B:24-1, Ch.369.
Life, premium charged against cash value of policy, notification to holder; required, C.17B:25-10.1, Ch.7.
Motor bus insurance, medical expense benefits coverage, verbal tort threshold for lawsuits, certain; required, C.17:28-1.5 et seq., amends C.39:6A-4.6, Ch.154.
New Jersey Insurance Underwriting Association, annual report on by Commissioner of Insurance; eliminated, amends C.17:37A-15, repeals C.17:37A-17, Ch.394.
"New Jersey Life and Health Insurance Guaranty Association Act," C.17B:32A-1 et seq., amends C.17:48E-6 et al., Ch.208.
Producers of record, use in depopulation plans for automobile insurance coverage, certain, amends C.17:30E-14 et al., Ch.462.
Title insurance companies, lending institutions et al., prohibition of action as insurance producer, control of selection, C.17:46B-30.1, Ch.18.

JOINT RESOLUTIONS
Alcohol-free student social activities required; State Board of Higher Education; memorialized; J.R.7.
Bluefish regulations, certain; urges State's rights, J.R.6.

JOINT RESOLUTIONS (Continued)
Bulk mail, recycling by Postal Service; Congress, President, memorialized, J.R.4.
Commission on Racism, Racial Violence and Religious Violence; created, C.52:9DD-1 et seq., J.R.2.
"Holocaust Remembrance Day," annual; designated, C.36:2-22, J.R.5.
"Lovelandtown Bridge," bridge spanning Point Pleasant Canal; designated, J.R.1.
"Student's Statement of Rights and Responsibilities," development, Chancellor of Higher Education; memorialized, J.R.3.

JUDGES
Salaries, Superior Court, certain, county responsibility for payment; removed, amends N.J.S.2B:2-5, Ch.440.
Superior Court, additional; amends N.J.S.2B:2-1 et al., Ch.177.

LABOR
Apparel industry, regulation, C.34:6-144 et seq., amends P.L.1987, c.458, Ch.189.
Industrial homework, apparel manufacture; prohibited, amends C.34:6-136.3, Ch.47.
Political action committees, employee contributions, payroll deductions; authorized C.34:11-4.4a, amends C.34:11-4.4, Ch.190.
Tobacco products, users, actions by employers, certain; prohibited, C.34:6B-1 et seq., Ch.207.
Workplace standards, wage and hours, certain, administration, penalties; enforcement, C.34:1A-7.1, amends C.34:11-4.1 et al., Ch.205.

LANDLORD AND TENANT
Eviction actions, condominium, cooperative conversions; temporarily prohibited, Ch.45.
Premises occupied by developmentally disabled person, removal of tenant, certain, authorized, amends C.2A:18-61.1, Ch.307.
"Tenant Protection Act of 1992," C.2A:18-61.40 et seq., amends C.2A:18-61.1 et al., Ch.509.

LEGISLATURE
Joint Legislative Committee on Ethical Standards:
Authority; expanded, amends C.52:13D-22, Ch.505.
Postmark rule for filing documents, C.52:13D-22.1 et seq., Ch.333.
Public membership; penalties for violations; increased, amends, C.52:13D-22, Ch.241.

LEGISLATURE (Continued)
Lobbyists, legislative agents:
Jurisdiction, supervision; changed, C.52:13C-23.1 et seq., amends C.52:13C-20 et al., repeals C.52:13C-22.2 et seq., Ch.244.
Reports, required; law revised, C.52:13C-22.1a, amends C.52:13C-18 et al., Ch.243.

MILITARY AND VETERANS
Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans, transferred to Department of Military and Veterans' Affairs, amends P.L.1987, c.323, Ch.132.
"Korean War Veterans' Day;" designated, C.36:2-20 et seq., Ch.221.
State militia, women, included; amends N.J.S.38A:1-2, Ch.195.
Tuition assistance programs, certain, transfer from Department of Higher Education to Department of Military and Veterans' Affairs, C.38A:3-2d1, amends C.18A:71-63 et al., Ch.273.
Tuition-free enrollment for members of National Guard, spouses, children, certain, in public institutions of higher education; C.18A:71-96 et seq., Ch. 296.
Veteran, definition; certain American Merchant Marines included, amends N.J.S.17B:28-3 et al., Ch.389.
Veterans outreach program at New Jersey Veterans' Memorial Home-Paramus, feasibility; study, Ch.217.
Vietnam Veterans' Memorial, maintenance by New Jersey Highway Authority; authorized, C.27:12B-5.3 et seq., Ch.70.
"Vietnam Veterans' Remembrance Day;" May 7, C.36:2-18 et seq., Ch.100.
War orphans educational grants program, transfer to Department of Military and Veterans' Affairs, amends R.S.38:20-3, Ch.39.
Wars, conflicts, service dates, conformed to federal law; benefits extended to Lebanon, Grenada, Panama, Persian Gulf veterans, C.18A:66-71.1 et al., amends N.J.S.11A:5-1 et al., Ch.390.
World War I veterans, law prohibiting garnishment of wages for prior debts; repealed, repeals R.S.38:21-1, Ch.93.

MOTOR VEHICLES
All-terrain vehicles; regulations, use, amends C.39:3C-3 et al., Ch.322.
Commercial licensing requirements, federal; exemptions clarified, amends C.39:3-10j et seq., Chs.11, 126.
Commercial motor vehicle, single unit 40 foot limitation, amends R.S.39:3-84, Ch.449.
Federal motor carrier safety regulations, applicable to intrastate, intramunicipal operations, amends C.39:5B-32, Ch.491.

MOTOR VEHICLES (Continued)
Handicapped parking enforcement units, municipal, establishment; permitted, C.39:4-197.9 et seq., Ch.442.
Handicapped parking spaces, signs; approval, C.39:4-8.1, Ch.285.
Mayor, chief executive of municipality, special registration plates; authorized, C.39:3-27.42, Ch.168.
Motorcycle safety education program; established, C.27:5F-36 et al., amends R.S.39:3-10 et al., Ch.452.
Parking in front of driveway; conditions, permits, required display, fees, C.39:4-138.3 et seq., Ch.297.
Parking privilege, handicap certification by podiatrist; permitted, amends C.39:4-204 et al., Ch.49.
Parking zone in front of residence of handicapped person, requirements; changed, amends C.39:4-197.6, Ch.406.
Persian Gulf war commemorative license plates, issuance, use; permitted, Ch.264.
Private open road, traffic devices; erection by owner, approval, maintenance, penalties, C.39:4-120.5 et seq., Ch.298.
Purple heart emblems, placement on license plate; permitted, C.39:3-27.43 et seq., Ch.232.
Registration surcharge, leased vehicles of PAAD recipients; exempt, amends C.17:33B-63, Ch.320.
Semi-trailers, authorized length; changed, amends R.S.39:3-84, Ch.115.
Special license plates, leased vehicles of county officials, certain; authorized, amends C.39:3-27.29 et seq., Ch.146.
United States Postal Service employees, certain, use of warning lights on personal vehicle; permitted, C.39:3-54.21, Ch.4.
Violations by juveniles of any age, municipal court jurisdiction, amends C.2A:4A-23, Ch.96.

MUNICIPALITIES
Alcoholic Beverage Control Enforcement Bureau inspectors, Marine Law Enforcement Bureau officers, certain, appointment as police, sheriff's officers; permitted, Ch.204.
Annual audit, completion time extended, amends N.J.S.40A:5-4, Ch.216.
Atlantic City convention center operating authority, hotel room fees, collection authorized, C.40:48-8.45 et seq., Ch.376.
Blairstown, township, police appointment, certain, Ch.67.
Brooklawn, borough of, police appointment, certain, Ch.124.
Chief financial officer, qualifications, duties, certification, amends C.40A:9-140.1 et al., repeals C.40A:9-140.5 et al., Ch.175.

MUNICIPALITIES (Continued)
Chief of police, deputy chief, minimum starting salary, required, C.40A:14-179, Ch.176.
Cliffside Park, borough of, police appointment, certain, Ch.263.
Commission form, candidate vacancies, certain, filling by committee on vacancies, C.40:45-10.1, Ch.61.
"Community Action Agency Act," C.52:27D-395 et seq., Ch.51.
Council on Community Restoration; established, C.52:27D-150.1 et seq., Ch.528.
Fees, certain, prepayment, acceptance by State of purchase orders for; permitted, C.40A:5-16.4, Ch.174.
Fire district, procedures for designation; established, amends N.J.S.40A:14-70, Ch.223.
Fiscal year, adoption of fiscal year beginning July 1; C.40A:4-3.1 et al., amends N.J.S.40A:1-1 et al., repeals C.40A:4-11.1 et al., Ch.75.
Garbage collection, curbside pickup only; permitted, amends R.S.40:66-1, Ch.213.
Host community benefit for cities, certain, negotiation with authorities, certain; permitted, C.40:14A-8.1 et al., Ch.266.
Hotel use, occupancy tax, calculation; revised, amends C.40:48E-5 et al., Ch.23.
Investments, mutual funds, certain; permitted, amends C.40A:5-15.1 et al., Ch.458.
Lambertville, city of, police appointment, certain, Ch.159.
Liability, civil, for court-ordered community service; immunity, C.59:7A-1, Ch.56.
"Local Government Ethics Law," C.40A:9-22.1 et seq., repeals C.40:23-6.51, Ch.29.
Local harbor and waterfront commission, lease transactions, certain, exempt from public bidding, amends C.40:68-24, Ch.374.
"Long Term Tax Exemption Law," urban redevelopment agreements, law revised, C.40A:20-1 et seq., repeals C.40:55C-40 et al., Ch.431.
"Municipal and County Sewerage Act," N.J.S.40A:26A-1 et seq., repeals C.40:23-19.1 et al., Ch.53.
Municipal clerk, appointment, duties, tenure; specified, C.40A:9-134.1, amends N.J.S.40A:9-133, Ch.73.
"Municipal court clerk," title changed to "municipal court administrator," C.2A:8-13a, Ch.98.
Municipal public utility, self-liquidating, determination; interest on investments, deposits; included, amends N.J.S.40A:2-45, Ch.196.

MUNICIPALITIES (Continued)
Municipal utilities authorities, appointment of members by mayors, certain; authorized, amends C.40:14B-4 et al., Ch.10.
Newark, city of, fireman appointment, certain, Ch.157.
Newfield, borough of, police appointment, certain, Ch.116.
"Optional Municipal Charter Law," sundry amendments, amends C.40:69A-12 et al., Ch.430.
Ordinances, revision, codification by certain persons; permitted, amends R.S.40:49-4 and N.J.S.2A:170-81, Ch.362.
Parking tax, extended; certain, amends C.40:48C-8 et al., Ch.288.
Pine Beach, borough of, police appointment, certain, Ch.106.
Property tax quarterly payments, use of installment leveling method; permitted, C.54:4-64a, amends R.S.54:4-64 et seq., Ch.89.
Public works managers, certification; required, C.40A:9-154.6a et seq., Ch.258.
Qualified bonds, pledging of certain revenues toward debt service; permitted, amends C.40A:3-2 et al., Ch.180.
Recreation commissioners, alternate members appointed to boards; C.40:12-1.1, Ch.284.
Shade tree commission ordinances, violations, penalties; increased, amends R.S.40:64-12, Ch.396.
Solid waste collection districts, creation; permitted, C.40:66-8 et seq., Ch.54.
Somerdale, borough of, police appointment, certain, Ch.66.
State payments to municipalities, employer payments to PFRS, certain, dates; changed, amends C.54:11D-6 et al., Ch.136.
"Supplemental Municipal Property Tax Relief Act," C.52:27D-118.32 et seq., amends R.S.54:4-65 et al., Ch.63.
Town form, mayors, council members, terms; increase permitted, C.40A:62-2.1 et seq., Ch.227.
Urban Development Corporation, powers; extended, amends C.55:19-3 et al., Ch.228.
Ward commissioners, compensation, reimbursement by resolution of governing body; permitted, amends C.40:44-12, Ch.501.
Waterworks commission, issuance of bonds; permitted, C.40:62-133.1 et seq., amends R.S.40:62-127 et al., Ch.162.
West Cape May, borough of, police appointment, certain, Chs.156, 446.
Wildwood, city of, police appointment, certain, Ch.158.

NURSING HOMES, ROOMING AND BOARDING HOUSES
Interest on residents' security deposits, payments by nursing homes; required, C.30:13-4.1 et seq., Ch.262.
Nursing home administrator examination fees; increased, amends C.30:11-13, Ch.78.

OATHS
Oaths of office, authority of Governor, legislators to administer; amends R.S.41:2-10, Ch.365.

PENSIONS AND RETIREMENT
County, municipal, county college employees, certain, additional benefits; provided, election by employer, Ch.229.
Hudson County system, minimum pension payable, $3,000, amends R.S.43:10-2 et al., Ch.309.
Judicial Retirement System, members, certain, 3/4's final salary, Ch.470.
Pensioners in other states' public systems, enrollment in State administered systems; credit purchase, amends C.43:3C-1, Ch.276.
Police and Firemen's Retirement System:
- Enrollment, full-time employees in part-paid fire department, certain, Ch.117.
- Enrollment, full-time firemen, 35 or older, certain, Ch.300.
- Firemen, fire district, certain, enrollment; permitted, Ch.155.
- Mortgage loans, certain, to members; provided, C.43:16A-16.3 et seq., amends C.43:16A-1, Ch.414.
- Municipal police assigned to another municipality, benefits, certain; continued, C.43:16A-7.2, Ch.57.
- Purchase of credit by reinstated firefighters, certain; permitted, Ch.360.
- Widows, widowers of retirees, pensions; increased, C.43:3B-8.4 et al., amends C.43:16A-12.1, Ch.511.

Public employees, certain, purchase credit for military, government service; permitted, C.43:16A-11.11, amends N.J.S.18A:66-13 et al., repeals C.18A:66-13.1 et al., Ch.153.
Public employees, certain, purchase credit for temporary service, credit purchase terms clarified; C.43:16A-11.10, amends N.J.S.18A:66-8 et al., Ch.138.
Public employees of agencies, certain, additional PERS benefits; provided, agency election, Ch.230.
Public Employees' Retirement System; retirees, reenrolled, certain, accounts combined; permitted, Ch.473.

PENSIONS AND RETIREMENT (Continued)
School, education employees, certain, additional benefits; provided, election by employer, Ch.231.
State employees, certain, additional benefits; provided, Ch.137.
State Police Retirement System:
Accidental death benefits for surviving spouses; increased, C.43:3B-8.3, amends C.53:5A-14, Ch.380.
Members, certain additional benefits; provided, C.53:5A-8.1, amends C.53:5A-8, Ch.206.
"Special" retirement benefits; increased, C.53:5A-34.1, amends C.53:5A-27, Ch.379.

PLANNING AND ZONING
Development applications:
Notification of CATV, utilities, certain, requirement; clarified, C.40:55D-12.1 et al., amends C.40:55D-3 et al., Ch.412.
Notification to public utilities, cable television companies; required, amends C.40:55D-12, Ch.245.
Family day care homes, permitted use in residential zones, C.40:55D-66.5a et al., amends C.30:5B-18 et al., Ch.278.
Historic preservation, plans, commissions; law revised, C.40:55D-65.1 et al., amends C.40:55D-4 et al., Ch.199.
Inspection fees for developers; deposits, prescribed amounts, amends C.40:55D-53, Ch.311.
Land use, law; revised, C.40:55D-23.2 et al., amends C.40:55D-5 et al., Ch.256.
Municipal acceptance of dedicated improvements upon release of performance guarantee, certain; amends C.40:55D-53, Ch.301.
Storm water detention facilities, safety requirements; C.40:55D-95.1, amends C.40:55D-95 et al., Ch.194.

POLICE
Appointments to county or municipal force; qualifications, seniority, C.40A:14-180, Ch.299.
Campus police; powers and authority, off-duty possession of firearms; Statewide, amends C.18A:6-4.5 and N.J.S.2C:39-6, Ch.327.
Chief of police, deputy chief, minimum starting salary, required, C.40A:14-179, Ch.176.
Law enforcement officers, former, certain, maximum age for appointment as municipal policeman; adjust for former service, amends C.40A:14-127.1 et seq., Ch.492.
Special law enforcement officers, extra-municipal authority, certain, amends C.40A:14-146.14, Ch.46.

POLICE (Continued)
Woman Police Officer of the Year, annual award; established, C.36:2-27, Ch.443.

PROFESSIONS AND OCCUPATIONS
Bioanalytical laboratory director, specialty license; provided, amends C.45:9-42.7, Ch.236.
Building subcontractors, certain, prompt payment; required, C.2A:30A-1 et seq., Ch.133.
Certified public accountant, experience requirements; changed, amends C.45:2B-8, Ch.361.
Clinical laboratory licensing requirements, agencies, certain; exempted, amends C.45:9-42.33, Ch.26.
"Contact Lens Dispenser Act," C.52:17B-41.25 et seq., Ch.447.
Corporate name, continued use of name of deceased person, certain; permitted, amends C.14A:17-14, Ch.50.
Cosmetologist-hairstylist licensing exam; two opportunities for passage prior to additional training, oral exam eliminated; amends C.45:5B-18 et al., Ch.313.
Dentists, continuing education; required, C.45:6-10.1 et seq., Ch.490.
Department of Environmental Protection permits, applications, certain, failure to complete, penalties; established, C.45:1-21.1, amends C.45:1-21, Ch.420.
Electrical contractor licenses, renewal period; extended, amends C.45:1-7, Ch.6.
"Landscape Irrigation Contractor Certification Act of 1991," C.45:5AA-1 et seq., Ch.27.
Nurse midwives, certified, prescription of certain medications; permitted, C.45:10-17 et seq., amends R.S.45:14-13 et seq., Ch.97.
"Nurse Practitioner/Clinical Nurse Specialist Certification Act," C.45:11-45 et seq., amends C.45:11-23 et al., Ch.377.
Optometrists, prescription for, use of drugs, certain permitted, C.45:12-9.8 et seq., amends R.S.45:12-1 et al., Ch.385.
Optometrists, professional associations offering continuing education, different registration fee for nonmembers; permitted, amends C.45:12-9.2, Ch.171.
"Orthotist and Prosthetist Licensing Act," C.45:12B-1 et seq., Ch.512.
Pharmacists, notification of doctors', dentists', veterinarians' status to prescribe drugs; required, C.45:9-16.1 et al., Ch.304.
"Physician Assistant Licensing Act," C.45:9-27.10 et seq., amends R.S.45:9-21 et al., Ch.378.

PROFESSIONS AND OCCUPATIONS (Continued)
Professional planner, licensing examination, municipal land use law; required matter, C.45:14A-9.1, amends C.45:14A-9 et al., Ch.104.
"Real Estate Appraisers Act," C.45:14F-1 et seq., amends C.45:1-2.1 et al., Ch.68.
Real estate appraisers, certified, general, residential classifications; provided, amends C.45:14F-2 et al., Ch.408.
Registered professional nurses, physical therapists, incorporation; provided, amends C.14A:17-3 et al., Ch.105.
"Respiratory Care Practitioner Licensing Act," C.45:14E-1 et seq., amends C.45:1-2.1 et al., Ch.31.
"Social Workers' Licensing Act of 1991," C.45:15BB-1 et seq., amends C.45:1-15 et al., Ch.134.
State Board of Medical Examiners, appointment of minimum of two osteopathic physicians; amends R.S.45:9-1, Ch.499.
Stevedore, license term; extended, C.32:23-23.1, Ch.248.

PUBLIC CONTRACTS
Bond requirements for construction contracts, relevant factors, waivers, certain, amends N.J.S.2A:44-143, Ch.454.
Local public contracts:
Basic life support services; multi-year, amends C.40A:11-15, Ch.312.
Claims administration services, multi-year, amends C.40A:11-15, Ch.356.
Energy generation, transmission, multi-year; amends C.40A:11-3 et al., Ch.143.
Liquid oxygen, chemicals, multi-year, amends C.40A:11-15, Ch.451.
Payments, withholding, certain, release by contracting unit; amends C.40A:11-16.1 et al., Ch.434.
Towing and storage, exemption from bidding requirements, certain, amends C.40A:11-5 et al., Ch.142.
Transportation services, certain, multi-year, amends C.40A:11-15, Ch.407.
Municipal ordinances, codification, exempt from bidding requirements; amends C.40A:11-5, Ch.368.
New Jersey Prompt Payment Act; revised, C.52:32-36.1, amends C.52:32-33 et seq., Ch.64.
State construction contracts, timely payments to subcontractors, suppliers by prime; required, C.52:32-40 et seq., Ch.507.

PUBLIC EMPLOYEES
Environmental Protection, Department, employees, certain, employment; regulated, C.13:1D-13.1 et seq., amends C.13:1B-15.100, Ch.415.
Public employees, certain, purchase credit for local service, certain; permitted, C.43:15A-73.4, Ch.444.

PUBLIC UTILITIES
Poles, placement in right of way with gas lighting; municipal consent, C.48:3-17a, Ch.366.
Telecommunications carriers, local exchange; alternative forms of regulation, C.48:2-21.16 et seq., Ch.428.
Telephone solicitation lists, removal of customer names, notice; required, C.48:17-25 et seq., Ch.150.
Tunnels under the Delaware River, companies building; laws repealed, repeals R.S.48:18-1 et seq., Ch.148.

REAL PROPERTY
Condominiums, governing board meetings, open to unit owners, adequate notice; required, C.46:8B-13.1, amends C.46:8B-13, Ch.48.
Rerecordation of title instruments; law revised, R.S.46:14-2.1 et al., amends C.46:15-6 et al., repeals R.S.46:12-1 et al., Ch.308.

RECREATION
Bicycle operators, passengers under age 14, helmets; required, C.39:4-10.1 et seq., Ch.465.
Lifeguard requirements, bathing facilities, certain; exempt, C.26:4A-4 et seq., repeals C.26:4A-1 et al., Ch.135.
Model rockets, use; regulated, C.21:1C-1 et seq., Ch.354.
"New Jersey Roller Skating Rink Safety and Fair Liability Act," C.5:14-1 et seq., Ch.28.
Recreational vehicles, certain, property owners' liability for operation on, limitations; clarified, C.2A:42A-5.1 et al., amends C.2A:42A-2 et al., Ch.496.

REFERENDA
National health care program, nonbinding; provided, Ch.160.

REORGANIZATION PLAN
Environmental Protection and Energy, Department, transfer of certain functions of the Board of Regulatory Commissioners to, No.002-1991.

SCHOOLS
Agricultural science education, development of curriculum guidelines, high school science credit, C.18A:35-4.11 et seq., Ch.114.

SCHOOLS (Continued)
Bilingual education programs, transfer of pupil from, multiple indicators of English proficiency; required, C.18A:35-19.1 et seq., amends C.18A:35-22, Ch.12.
Board investments, mutual funds, certain; permitted, amends C.18A:20-37 et al., Ch.458.
County special services school district; employment, powers, amends C.18A:46-38, Ch.293.
Directors of athletics, high school, newly appointed, supervisory certificate; required, C.18A:26-2.1 et seq., Ch.17.
District purchases for less than $150, affidavit requirement; removed, amends N.J.S.18A:19-3, Ch.37.
Districts, spending parity, study; required, Ch.259.
Election, annual, to be held April 30, 1991, Ch.21.
Elections, mailing of sample ballots in Newark; required, amends N.J.S.18A:14-29, Ch.52.
Election workers, pay; increased, voter eligibility, amends N.J.S.18A-14-8 et al., Ch.77.
Emergency sirens, minimum distance from schools, playgrounds; required, C.13:1G-4.2, Ch.475.
Lease purchase agreements, certain, requirements for approval; additional, amends N.J.S.18A:20-4.2 Ch.477.
Local districts, system for evaluation, monitoring; revised, Task Force on Educational Assessment and Monitoring; established, C.18A:7A-14.1 et al., amends C.18A:7A-6 et al., Ch.3.
Lyme Disease information curriculum, development; required, C.18A:35-5.1 et seq., Ch.488.
Nonpublic pupils, State aid determination, amends C.18A:7D-18 et al., Ch.128.
Nonpublic school pupils, provision of nursing services; required, C.18A:40-23 et seq., Ch.226.
Property, leasing to nonprofit historic preservation organizations without bidding; permitted, amends C.18A:20-8.2, Ch.172.
Quality Education Act of 1990; revised, C.18A:7D-21.1 et al., amends C.18A:7D-3 et al., repeals C.18A:7D-5 et al., Ch.62.
"School Ethics Act," C.18A:12-21 et seq., Ch.393.
State-operated districts, approval of capital projects by Capital Project Control Board, C.18A:7A-46.1 et seq., Ch.139.
Superintendents, administrative principals, duration of employment contracts, evaluation procedures; established, C.18A:17-20.1 et seq., amends N.J.S.18A:17-15 et al., Ch.267.

SCHOOLS (Continued)
Transportation contracts, extensions, certain; authorized, amends N.J.S.18A:39-3, Ch. 316.

SENIOR CITIZENS
"Continuing Care Retirement Community Regulation and Financial Disclosure Act"; civil penalties, amends C.52:27D-351, Ch.314.
"Older and Walking Impaired Persons Crossing" areas, designation; authorized, C.39:4-183.1b, Ch.120.

SEWERAGE
Passaic Valley sewerage district, boundaries; changed, C.58:14-1.9, amends R.S.58:14-1, repeals C.58:14-1.1 et al., Ch.212.

SOLID WASTE
Advisory Council on Solid Waste Management, membership; recycling matters, amends C.13:1E-7 et seq., Ch.292.
Collection services, private contracts when not provided by municipality; required, C.40:66-5.1 et seq., amends C.40:66-1.1 et al., Ch.170.
Lead acid batteries, disposal, recycling; required, C.13:1E-199 et seq., Ch.94.
Solid, hazardous waste industries, licensing program; revised, C.13:1E-128.1 et al., amends C.13:1E-127 et al., Ch.269.
"Solid Waste Collection Regulatory Reform Act," C.48:13-7.1 et seq., amends C.48:13A-1 et al., repeals C.13:1E-145, Ch.381.
Solid waste facilities, recycling costs, inclusion in fees charged; authorized, C.48:13A-6.3, Ch.35.
Vehicles, food transport; prohibited, C.48:13A-12.1 et seq., Ch.214.

STATE GOVERNMENT
Brook trout, designation as State fish, C.52:9AAAAAA-1, Ch.342.
Buildings, State, certain, code field inspections, delegation; permitted, amends C.52:27D-129, Ch.87.
Environmental Protection, Department, budget, "Environmental Fee Accountability Act of 1991," C.52:27B-20.1 et seq., Ch.426.
Great Seal of the State, use, display by county prosecutors, sheriffs; amends C.52:2-3, Ch.191.
Hadrosaurus Foulkii, designation as State dinosaur, C.52:9AAAAA-1, Ch.161.
James J. Howard Marine Science Laboratory, financing, construction; Ch.198.
John P. Caufield Memorial Fire Engine and Equipment Museum; designated, C.28:2-26, Ch.215.

STATE GOVERNMENT (Continued)
New Jersey Tourism Advisory Council, membership, amends C.34:1A-47 et al., Ch.280.
Payments to municipalities, employer payments to PFRS, certain, dates; changed, amends C.54:11D-6 et al., Ch.136.
Pension and Health Benefits Review Commission; established, C.52:9HH-1 et seq., Ch.382.
Property, real, surplus, certain, sale; authorized, Chs.88,101,463,464.
Reports, documents, submission by State agencies to Legislature; procedure; C.52:14-19.1, amends R.S.52:14-19, Ch.164.
Violent Crimes Compensation Board members, salary structure; maintained, amends C.52:4B-4 et al., Ch.513.

TAXATION
"Five-Year Exemption and Abatement Law," municipal tax exemption, abatement law, revised, C.40A:21-1 et seq., repeals C.54:4-3.72 et al., Ch.441.
Gross income tax return checkoff options, "Children's Trust Fund," "Endangered and Nongame Species of Wildlife Conservation Fund"; value increased, C.54A:9-25.4 et al., Ch.287.
Hotel use, occupancy tax, calculation; revised, amends C.40:48E-5 et al., Ch.23.
Municipal forgiveness or refund of property tax levied against religious organizations, certain, Ch.303.
Omitted tax assessments, filing of complaints by assessors; permitted, notice requirements; changed, amends C.54:4-63.13, Ch.439.
Parking tax imposed by municipalities, extended; certain, amends C.40:48C-8 et al., Ch.288.
Petroleum products gross receipts tax, calculation method, exemptions; changed, C.54:15B-12 et al., amends C.54:15B-2 et al., Ch.181.
Petroleum products gross receipts tax, federal government, exemption, reimbursement, C.54:15B-9 et seq., amends C.54:15B-5, Ch.19.
Property tax billing, procedure; reconciled, changed, amends R.S.54:4-64 et al., Ch.410.
Property tax quarterly payments, use of installment leveling method; permitted, C.54:4-64a, amends R.S.54:4-64 et seq., Ch.89.
Public utilities, unit tax, payment method, C.54:30A-18.6 et al., amends C.54:30A-18 et al., repeals C.54:30A-18.3, Ch.184.
Residential property, certain, uniform tax treatment after expiration of abatement; provided, amends C.54:4-3.140 et al., Ch.469.
Revaluation of real properties in municipalities; certain; postpone, temporary, Ch.112.

TAXATION (Continued)
Sales and use tax, exemption:
For disposable household paper products, restored, C.54:32B-8.44, Ch.209.
For labor on buses, certain, amends C.54:32B-8.28, Ch.497.
Tax sale certificates, certain, foreclosure; permitted, C.54:5-114.4a, Ch.403.
"Tenants' Property Tax Rebate Act;" revised, amends C.54:4-6.3, Ch.65.

TRANSPORTATION
Delaware and Raritan Canal, bridges, structures, temporary jurisdiction for repair, maintenance, assigned to Department of Transportation, C.13:13-3.1 et seq., amends R.S.13:13-3 et al., Ch.344.
New Jersey Transit Police Department; designated, duties, responsibilities, C.27:25-15.1a, amends C.27:25-15.1 et al., Ch.386.
"South Jersey Transportation Authority Act," C.27:25A-1 et al., repeals C.27:12C-1 et al., Ch.252.
Transportation Trust Fund Authority, maximum annual capital program financing, FY91 and FY92; increased, amends C.27:1B-2 et al., Ch.40.
Urban transportation master plan, preparation; required, C.27:1A-5.7 et seq., Ch.481.

TRUSTS
Funeral trusts, prepaid, certain, exemption from revocability requirement; provided, C.2A:102-16.1 et seq., amends C.3B-11-16, Ch.502.

UNEMPLOYMENT COMPENSATION
Eligibility following disability, certain; permitted, C.43:21-30.1 et al., amends R.S.43:21-19, Ch.486.
Emergency Unemployment Benefits Program; established, Ch.200.
Interstate recovery of overpaid benefits; provided, amends R.S.43:21-16, Ch.357.

VALIDATING ACTS
Municipal bonds, Ch.220.
School district bonds, Chs.107, 152, 173, 239.

WATER SUPPLY
Passaic Valley sewerage district, boundaries; changed, C.58:14-1.9, amends R.S.58:14-1, repeals C.58:14-1.1 et al., Ch.212.

WATER SUPPLY (Continued)
Pollution control, violation of effluent limitation, action by Department of Environmental Protection; required, C.58:10A-10.10, Ch.109.
Scrap steel, unintentional dropping into water during loading, certain; exempt from pollution violation, amends R.S.23:5-28, Ch.495.
Summons for water pollution violations, issuance; authorized, penalties, hearings, appeals; regulated, C.58:10A-10.4 et seq., Ch.8.
Water resources development plan, DEP preparation; required, Ch.484.

WATERWAYS
Licensed pilots for vessels, certain; required, C.12:8-29.1 et al., amends R.S.12:8-8 et al., Ch.76.

WEIGHTS AND MEASURES
Laws, obsolete; changed, amends C.51:1-31.1, repeals R.S.51:1-30 et al., Ch.59.

WELFARE
Aid to families with dependent children:
Eligibility requirements, certain; revised, C.44:10-3.3 et seq., Ch.525.
Schedule of benefits to be revised, C.44:10-3.5 et seq., Ch.526.
Two-parent families; benefits permitted, C.44:10-3.7 et seq., Ch.527.
"Public Assistance Electronic Benefit Distribution System Act," C.44:10-5.6 et seq., amends C.44:10-5.1 et al., repeals C.44:10-5.4, Ch.478.
SSI, AFDC programs, State, county reimbursement; laws revised, amends C.44:7-87 et al., Ch.466.

WORKERS' COMPENSATION
Judges, salaries; increased, tenure; provided, amends R.S.34:15-49 et al., Ch.513.