

ACTS

OF THE

Second Annual Session

OF THE

Two Hundred and First Legislature

OF THE

STATE OF NEW JERSEY

AND

Thirtieth Under the New Constitution

CHAPTERS 237-543



1985

New Jersey State Library

CHAPTER 237

AN ACT concerning cities and repealing certain statutes.

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

Repealer.

1. The following are repealed:

N. J. S. 40A:14-165 (saved R. S. 40:174-6 to 40:174-25 inclusive from repeal).

N. J. S. 40A:14-166 (saved R. S. 40:174-26 from repeal).

2. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 238

AN ACT concerning beach commissions and repealing R. S. 40:55A-1 to R. S. 40:55A-12 inclusive.

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

Repealer.

1. R. S. 40:55A-1 to R. S. 40:55A-12 inclusive are repealed.

2. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 239

AN ACT concerning possession of certain drugs by operators of motor vehicles and amending P. L. 1964, c. 289.

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

1. Section 1 of P. L. 1964, c. 289 (C. 39:4-49.1) is amended to read as follows:

C. 39:4-49.1 Drug possession by motor vehicle operator.

1. No person shall operate a motor vehicle on any highway while knowingly having in his possession or in the motor vehicle any controlled dangerous substance as classified in Schedules I, II, III, IV and V of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21-1 et seq.) or any prescription legend drug, unless the person has obtained the substance or drug from, or on a valid written prescription of, a duly licensed physician, veterinarian, dentist or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals or unless the person possesses a controlled dangerous substance pursuant to a lawful order of a practitioner or lawfully possesses a Schedule V substance.

A person who violates this section shall be fined not less than \$50.00 and shall forthwith forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction.

2. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 240

AN ACT concerning funding for certain county library services and amending P. L. 1977, c. 300.

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

1. Section 5 of P. L. 1977, c. 300 (C. 40:33-19) is amended to read as follows:

C. 40:33-19 Funding county library services.

5. Following the passage of a resolution to reorganize the free county library pursuant to the provisions of this act and annually thereafter, the board of chosen freeholders shall determine a sum sufficient for the maintenance of first and second level services at the county library. The sum to be raised for first level services shall be certified by the board of chosen freeholders to the county board of taxation, which shall apportion such amount among the municipalities receiving first level services.

The amount thus apportioned to each municipality for first level services shall be assessed, levied and collected in the same manner and at the same time as other county taxes are assessed, levied and collected therein. The sum to be raised and appropriated for second level services shall be raised and appropriated by the board of chosen freeholders in the same manner as moneys are raised and appropriated for other county purposes pursuant to the Local Budget Law (N. J. S. 40A :4-1 et seq.).

2. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 241

AN ACT authorizing the sale of certain parcels of surplus real property owned by the State.

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

1. The following parcels of State-owned real property are hereby declared surplus and shall be disposed in accordance with the provisions of this act:

DEPARTMENT OF DEFENSE

Paterson Armory, 475 Market Street, Paterson . . 1.21 Acres
Block 740, Lot 1

Elizabeth Armory, 1171 Magnolia Avenue,
Elizabeth 2.01 Acres
Block 12, Lot 923

2. The sales shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 242

AN ACT appropriating funds from the "Public Purpose Buildings Construction Fund" for the construction of a forensic psychiatric hospital.

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

1. There is appropriated to the Department of Human Services from the "Public Purpose Buildings Construction Fund" created by the "New Jersey Public Purpose Buildings Construction Bond Act of 1980," P. L. 1980, c. 119, the sum of \$7,200,000.00 for the following construction project:

Division of Mental Health and Hospitals

Construction of a forensic psychiatric hospital \$7,200,000

2. There is also appropriated from the proceeds of the sale of the above mentioned bonds those items as may be necessary to meet any expense incurred by the issuing officials under P. L. 1980, c. 119 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. The Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, of any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The correction shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect.

4. The Director of the Division of Budget and Accounting may approve expenditures for redesign program planning and other related costs for capital projects authorized under this act.

5. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services may apply to the

Director of the Division of Budget and Accounting for permission to transfer a part of any item of appropriation to any other item of appropriation within the respective department accounts. The transfer shall be made only upon the written approval of the director and of the Subcommittee on Transfers of the Joint Appropriations Committee or its successor.

6. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 243

AN ACT cancelling certain reallocations from the Clean Waters Fund made pursuant to P. L. 1981, c. 28 in the amount of \$3,708,508.00; and reallocating this funding for emergency water supply projects to alleviate the current drought emergency.

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

1. The following portions of amounts reallocated from the Clean Waters Fund created pursuant to the "Clean Waters Bond Act of 1976" (P. L. 1976, c. 92) under P. L. 1981, c. 28 to the Department of Environmental Protection for certain emergency water supply projects associated with the drought emergency of 1981 are hereby cancelled:

Improvements at Passaic Valley Treatment Plant; George Washington Bridge Interconnection; Bolster Interconnection between Elizabethtown Water Com- pany and the Newark Water System; and the Raritan-Passaic Pipeline (planning and design only)	\$3,708,508.00
	\$3,708,508.00

2. The Department of Environmental Protection is hereby authorized and directed to utilize the sum of \$3,708,508.00 from the Clean Waters Fund for the following water supply projects to alleviate the current drought emergency:

Pumping facilities at Lake Hopatcong;

Pumping facilities at Lake Wawayanda;
Installation of a permanent pipeline across the George Washington Bridge; and
Emergency well drilling projects in northeast New Jersey.

The Department of Environmental Protection shall, within 30 days of the effective date of this act and every 30 days thereafter, transmit a report to the Chairman of the Senate Energy and Environment Committee and the Chairman of the Assembly Agriculture and Environment Committee, which report shall detail the status of these projects and the amount expended thereon.

3. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 244

AN ACT concerning school funding, and amending and supplementing P. L. 1979, c. 207.

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

1. Section 19 of P. L. 1979, c. 207 (C. 18A:7B-12) is amended to read as follows:

C. 18A:7B-12 Determination of district of residence.

19. For school funding purposes, the Commissioner of Education shall determine district of residence as follows:

a. The district of residence for children in foster homes shall be the district in which the foster parents reside. If a child in a foster home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such foster placement had occurred.

b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, private schools or out-of-state facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.

If this cannot be determined, the district of residence shall be the district in which the child resided prior to such admission or placement.

c. If the district of residence cannot be determined according to the criteria contained herein, or if the criteria contained herein identify a district of residence outside of the State, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the State average net current expense budget per pupil plus the appropriate categorical program support. This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services or the Department of Corrections.

2. (New section) For the school year 1984-85 the sum of \$785,000.00, appropriated in P. L. 1984, c. 144 from the General Fund to the Department of Education, shall be used to adjust State aid for those districts which are paying for the costs of educating children in 1984-85 who are in residential State facilities and whose district of residence was unknown as of the last school day of September 1983 and, therefore, was determined to be the district in which the State facility was located pursuant to the provisions of section 19 of P. L. 1979, c. 207 (C. 18A:7B-12).

3. (New section) For each school district subject to the provisions of subsection c. of section 19 of P. L. 1979, c. 207 (C. 18A:7B-12c.), an amount equal to the sum of a. funds distributed in school year 1984-85 and b. funds appropriated in school year 1985-86 in place of local district tuition payments pursuant to subsection c. of section 19 of P. L. 1979, c. 207 (C. 18A:7B-12c.), shall be credited as a local tax levy adjustment in school year 1986-87.

4. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 245

AN ACT to amend the "Casino Control Act," approved
June 2, 1977 (P. L. 1977, c. 110).

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

1. Section 101 of P. L. 1977, c. 110 (C. 5:12-101) is amended to read as follows:

C. 5:12-101 Credit.

101. Credit. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming activity without maintaining a written record thereof in accordance with the rules of the commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent, from any person to enable such person to take part in gaming activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(1) The check is made payable to the casino licensee;

(2) The check is dated, but not postdated;

(3) The check is presented to the cashier or his representative and is exchanged only for a credit slip or slips which total an amount equal to the amount for which the check is drawn, which slip or slips may be presented for chips at a gaming table; and

(4) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash or recognized traveler's check or other cash equivalent, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such

check in a bank for collection or payment within (1) seven banking days of the date of the transaction for a check in an amount less than \$1,000.00; (2) 14 banking days of the date of the transaction for a check of at least \$1,000.00 but less than \$2,500.00; or (3) 90 banking days of the date of the transaction for a check of \$2,500.00 or more. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash or chips in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash or chips and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash or chips tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment within the time period prescribed by this subsection.

d. No casino licensee or any other person licensed under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

- (1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;
- (2) A bank for collection or payment of the check; or
- (3) A purchaser of the casino license as approved by the commission.

The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the casino licensee without full and final payment.

e. No person other than one licensed as a casino key employee or as a casino employee may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable.

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming activity as a player, or may give cash or cash equivalents in exchange for the check, provided that:

(1) The check is drawn by a casino licensee pursuant to the provisions of subsection k. of section 100 of P. L. 1977, c. 110 (C. 5:12-100k.) or upon a withdrawal of funds from an account established in accordance with the provisions of subsection b. of this section;

(2) The check is identifiable in a manner approved by the commission as a check issued for a purpose listed in paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer; and

(5) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or credit to a person to enable the person to take part in gaming activity as a player.

2. This act shall take effect immediately.

Approved July 17, 1985.

CHAPTER 246

AN ACT concerning bus driver licenses and amending R. S. 39:3-10.1.

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

1. R. S. 39:3-10.1 is amended to read as follows:

Licensing of bus drivers.

39:3-10.1. No person shall drive any motor vehicle or trackless trolley with a capacity of more than six passengers used for the transportation of passengers for hire or for the transportation of passengers to or from summer day camps or summer residence camps or any bus as defined by the director used for the transportation of passengers, except vehicles used in ride-sharing arrangements, taxicabs, or any bus used to transport children to and from school pursuant to N. J. S. 18A:39-1 et seq. or when being used by a private school to transport children to and from school, unless specially licensed so to do by the director or in the case of a nonresident, licensed pursuant to the laws of his resident state with respect to the licensing of bus drivers. Such license shall not be granted by the director until the applicant therefor is at least 18 years of age and has passed a satisfactory examination in ascertainment of his driving ability and familiarity with the mechanism of said vehicle and has presented evidence, satisfactory to the director of his previous experience (including proof that he has had at least three years of driving experience), good character and physical fitness. Said license shall be effective until suspended or revoked by the director; provided, the special licensee is also the holder of a license as provided for in R. S. 39:3-10.

Every holder of a special license issued pursuant to this section shall furnish to the director satisfactory evidence of continuing physical fitness, good character and experience once in every 24 months after the issuance of the special license.

The director may suspend or revoke a license granted under authority of this section for a violation of any of the provisions of this subtitle, or on other reasonable grounds, or where, in his opinion, the licensee is either physically or morally unfit to retain the same.

The director may make such rules and regulations as he may deem necessary to carry out the provisions of this section.

2. This act shall take effect on the 120th day following enactment.

Approved July 17, 1985.

CHAPTER 247

AN ACT establishing a Hazardous Discharge Site Cleanup Fund, appropriating money from the Hazardous Discharge Fund to the Hazardous Discharge Site Cleanup Fund for the purposes of cleanup and removal of hazardous discharges, and repealing P. L. 1981, c. 406.

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

C. 58:10-23.34 Hazardous Discharge Site Cleanup Fund.

1. a. There is established in the Department of Environmental Protection a fund to be known as the "Hazardous Discharge Site Cleanup Fund." All interest earned on moneys in the fund shall be credited to the fund. Moneys in the fund shall be used by the Department of Environmental Protection for the purposes of preparing feasibility studies, engineering designs, and undertaking other work necessary to the cleanup or mitigation of hazardous discharge sites in this State included on the National Priorities List of hazardous discharge sites adopted by the federal Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," Pub. L. 96-510 (42 U. S. C. § 9601 et seq.) or other hazardous discharge sites approved by the department.

b. Any monies received by the department from the federal government or from responsible parties as reimbursement for costs incurred by the department in connection with the cleanup of a hazardous discharge site on the federal National Priorities List shall be deposited by the department for additional hazardous discharge site cleanup activities.

2. There is appropriated to the "Hazardous Discharge Site Cleanup Fund" established pursuant to section 1 of this act from the Hazardous Discharge Fund, created pursuant to section 14 of the "Hazardous Discharge Bond Act" (P. L. 1981, c. 275), the sum of \$50,000,000.00 for the purpose of cleanup and removal of hazardous discharges.

3. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P. L. 1981, c. 275. Not more than 10% of the sum may be used for the administrative costs associated with the cleanup and removal activities.

Repealer.

4. P. L. 1981, c. 406 is repealed.

5. This act shall take effect immediately.

Approved July 24, 1985.

CHAPTER 248

AN ACT appropriating money from the Hazardous Discharge Fund for the purposes of cleanup and removal of hazardous discharges.

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

1. There is appropriated to the Hazardous Discharge Site Cleanup Fund established pursuant to section 1 of P. L. 1985, c. 247 (C. 58:10-23.34), from the Hazardous Discharge Fund, created pursuant to section 14 of the "Hazardous Discharge Bond Act" (P. L. 1981, c. 275), the sum of \$50,000,000.00 for the purpose of cleanup and removal of hazardous discharges.

2. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P. L. 1981, c. 275. Not more than 10% of the sum may be used for the administrative costs associated with the cleanup and removal activities.

3. This act shall take effect immediately.

Approved July 24, 1985.

CHAPTER 249

AN ACT establishing a crime victim's bill of rights and supplementing Title 52.

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

C. 52:4B-34 Short title.

1. This act shall be known and may be cited as the "Crime Victim's Bill of Rights."

C. 52:4B-35 Findings, declarations.

2. The Legislature finds and declares that without the participation and cooperation of crime victims and witnesses, the criminal justice system would cease to function. The rights of these individuals should be given full recognition and protection. The Legislature has the responsibility to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process. In furtherance of this, the improved treatment of these persons should be assured through the establishment of specific rights. These rights are among the most fundamental and important in assuring public confidence in the criminal justice system.

C. 52:4B-36 Rights of crime victims, witnesses.

3. The Legislature finds and declares that crime victims and witnesses are entitled to the following rights:

- a. To be treated with dignity and compassion by the criminal justice system;
- b. To be informed about the criminal justice process;
- c. To be free from intimidation;
- d. To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible;
- e. To make at least one telephone call provided the call is reasonable in both length and location called;
- f. To medical assistance if, in the judgment of the law enforcement agency, medical assistance appears necessary;
- g. To be notified if presence in court is not needed;
- h. To be informed about available remedies, financial assistance and social services;

- i. To be compensated for their loss whenever possible;
- j. To be provided a secure, but not necessarily separate, waiting area during court proceedings;
- k. To be advised of case progress and final disposition; and
- l. To the prompt return of property when no longer needed as evidence.

C. 52:4B-37 Victim defined.

4. As used in this act, "victim" means a person who suffers 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. "Victim" also includes the nearest relative of the victim of a criminal homicide.

C. 52:4B-38 "Tort Claims Act" rights.

5. Nothing contained in this act shall mitigate any right which the victim may have pursuant to the New Jersey Tort Claims Act (N. J. S. 59:1-1 et seq.).

6. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 250

AN ACT concerning the protection of victims and witnesses of crime from intimidation and retaliation 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:28-5.1 Witness, victim protective orders.

1. If a court having jurisdiction under any criminal matter finds that the defendant in that criminal action or any other person connected in any way with the action has violated or is likely to violate N. J. S. 2C:28-5, N. J. S. 2C:29-3 or N. J. S. 2C:29-4 in regard to the pending offense, or that the defendant or other person has injured or intimidated or is threatening to injure or intimidate any witness in the pending offense or member of the witness' family with purpose to affect the testimony of the witness, the court may issue a protective order providing:

a. That the defendant or other person not violate any provision of N. J. S. 2C:28-5, N. J. S. 2C:29-3, or N. J. S. 2C:29-4;

b. That the defendant or other person maintain a prescribed geographic distance from any specified witness or victim;

c. That the defendant or other person have no communication with any specified witness or victim, except through an attorney under any reasonable restrictions which the court may impose.

C. 2C:28-5.2 Penalties for violations.

2. Any person violating any order made pursuant to section 1 of this act may be subject to any of the following penalties:

a. He may be charged with any substantive offense defined in N. J. S. 2C:28-5, N. J. S. 2C:29-3, or N. J. S. 2C:29-4 when violation of an order constitutes violation of any provision of those statutes;

b. He may be charged with contempt of the court that made the order. No finding of contempt shall be a bar to prosecution for a substantive offense; and any sentence for a conviction of contempt may be served consecutively to any sentence imposed for the underlying substantive offense. If the court does not impose a consecutive sentence, the court shall state on the record the reason for not imposing a consecutive sentence.

C. 2C:28-5.3 Moving parties.

3. A motion for an order as provided by section 1 of this act may be made by the prosecuting authority, the defendant, or by any witness.

C. 2C:28-5.4 Standard for issuance.

4. No order may be issued under this act unless the court's findings are made upon a preponderance of evidence adduced at a hearing. The rules of evidence shall not be applicable to any such hearing.

C. 2C:28-5.5 No interference with defense preparation.

5. No order shall be entered under this act which interferes with the preparation of the underlying criminal case by the defendant or by his attorney, if any.

6. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 251

AN ACT concerning the payment of penalty assessments, restitution and fines by inmates in State and county correctional facilities and amending P. L. 1979, c. 396, P. L. 1969, c. 22, R. S. 30:4-92, R. S. 30:8-26, R. S. 30:8-42, R. S. 30:8-43, and P. L. 1968, c. 372.

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

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

C. 2C:43-3.1 Penalty assessments.

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 a penalty of at least \$25.00, but not to exceed \$10,000.00 for each such crime for which he was convicted. In imposing this penalty the court shall consider factors such as the severity of the crime, the defendant's criminal record, the defendant's ability to pay and the economic impact of the penalty 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, violation of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21-1 et seq.), or any crime not resulting in the injury or death of any other person shall be assessed a penalty of \$25.00 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 20 of P. L. 1973, c. 306 (C. 2A:4-61) 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 3 of P. L. 1973, c. 306 (C. 2A:4-44), shall be assessed a penalty of at least \$10.00 for each such adjudication, but shall not exceed the amount which could be assessed if the offense was committed by an adult.

(3) All penalties provided for in this section shall be collected as provided for collection of fines and restitution in section 3 of this act and forwarded to the Violent Crimes Compensation Board as provided in paragraph (4) hereof.

(4) All moneys collected pursuant to paragraphs (1) and (2) shall be forwarded to the State Treasury to be deposited in a separate account for use by the Violent Crimes Compensation Board in satisfying claims and for related administrative costs, pursuant to the provisions of the "Criminal Injuries Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B-1 et seq.).

b. All moneys, including fines and restitution, collected from a person convicted of any disorderly persons offense, any petty disorderly persons offense, violation of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21-1 et seq.), from any juvenile adjudicated delinquent or any crime shall be applied first to any penalty imposed pursuant to this section upon such a person.

c. An adult prisoner of a State correctional institution who has not paid a penalty imposed pursuant to this section shall have the penalty deducted from any income the inmate receives as a result of labor performed at the institution or any type of work release program.

d. If any person, including an inmate, fails to comply with any of the terms or penalties imposed pursuant to this section the court may, in addition to any other penalties it may impose, order the suspension of the person's driver's license or nonresident reciprocity privilege, or prohibit the person from receiving or obtaining a license until the terms or penalties are complied with. The court shall notify the Director of the Division of Motor Vehicles of the action. Prior to any action being taken pursuant to the subsection, the person shall be afforded notice and a hearing before the court to contest the charge of failure to comply.

2. 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, may require that any wages, salary, earnings and other income of each gainfully employed prisoner shall 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 moneys belonging to any inmate the superintendent of the institution is authorized and empowered to withdraw sufficient moneys, in an amount not to exceed one-half the total income, 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) Payment of court-ordered penalty assessments, restitution and fines.

(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.

3. 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 is authorized to withdraw sufficient moneys, in an amount not to exceed one-third of the inmate's total income, as may be required to pay any penalty 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

camp, farms or details shall receive further remission of time 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.

4. R. S. 30:8-26 is amended to read as follows:

County jail inmates.

30:8-26. The county governing body may establish a wage system for payment to prisoners for their services upon work carried on by such governing body or by any board, commission or institution that receives funds from the county. Such wage system may include in its provisions all prisoners employed in any work or service necessary for the maintenance of the county jail or its inmates; but the wage allowed each prisoner shall not exceed 50 cents for each day of eight hours' work by such prisoners.

The county governing body is authorized to withdraw from moneys paid to prisoners sufficient moneys, in an amount not to exceed one-third of the inmate's total income, as may be required to pay any penalty assessment, restitution or fine ordered as part of any sentence.

5. R. S. 30:8-42 is amended to read as follows:

Workhouse inmates.

30:8-42. The county governing body may establish a wage system for payment to prisoners for services in work carried on by such governing body or by any board, commission or institution that receives funds from the county. Such wage system may include all prisoners employed in any work or service necessary for the maintenance of the workhouse or penitentiary or their inmates. The wage allowed each prisoner shall not exceed 50 cents for each day of eight hours' work by such prisoners. In the payment of wages to prisoners preference shall be given to those who have persons legally dependent upon them for support.

The county governing body is authorized to withdraw from moneys paid to prisoners sufficient moneys, in an amount not to exceed one-third of the inmate's total income, as may be required to pay any penalty assessment, restitution or fine ordered as part of any sentence.

6. R. S. 30:8-43 is amended to read as follows:

Support of dependents.

30:8-43. When a prisoner has a wife, child or children or others legally dependent upon him, or her, for support, the earnings of

such prisoner shall be disbursed through the county probation office to such dependents, or to the society or institution having the care or custody of such dependents, or any of them, as the court may direct, and the order of the court relative to payments of such earnings may be modified at any time thereafter as the court may determine, but the court may order that the fines, penalty assessments, restitution, and costs may be first charged against and deducted from the earnings of such prisoner. The county governing body shall make rules and regulations relative to the disposition of the earnings of all prisoners, and may designate an officer or employee of the county as the disbursing agent of such funds.

When the earnings of any such prisoner have been unclaimed for a period of one year after the discharge of any such prisoner from imprisonment, the county probation officer shall pay to the county treasurer of the county such unclaimed sums of money, for the use of the county; provided, however, that at any time within two years after such moneys have been turned over to the use of the county, any person or persons claiming to own the said money, in addition to any other remedy now provided by law, may make application, upon giving ten days' prior notice thereof to the county treasurer, to the court for an order declaring such moneys to be the property of such person or persons, and ordering the same to be returned to such person or persons by the county treasurer. Upon proof that such person or persons are entitled to said moneys, the court shall issue an order directing the county treasurer to pay such moneys over to such person, which order and payment shall be a valid and sufficient release and discharge of the county treasurer.

7. Section 6 of P. L. 1968, c. 372 (C. 30:8-49) is amended to read as follows:

C. 30:8-49 Work release earnings.

6. The earnings of such person shall be collected by the work release administrator and the employer shall be notified by registered mail, which notice shall include a copy of the order placing the person at outside labor. From such earnings, payment shall be made for the following purposes and in the order listed:

- (1) Board and personal expenses of such person inside and outside of jail or workhouse.
- (2) Court costs, court-ordered penalty assessments, restitution and fines.

(3) After written notice to the appropriate welfare board the legally ascertained support of such person's dependents.

(4) Payment of debts and legal obligations of such person acknowledged by him in writing and filed with the work administrator in such form as he shall specify. Any balance of such earnings that shall remain after the payment of the above shall be retained until the person's discharge and after proper accounting, shall be paid to him.

8. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 252

AN ACT concerning the collection of fines, penalty assessments and restitution and amending N. J. S. 2C:46-1 and N. J. S. 2C:46-2.

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

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

Time and method of payment; disposition of funds.

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

a. When a defendant is sentenced to pay a penalty 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 penalty assessment, fine or restitution shall be payable forthwith.

b. When a defendant sentenced to pay a penalty assessment, fine or to make restitution is also sentenced to probation, the court may make continuing payment of installments on the penalty assessment, fine or restitution a condition of probation.

c. The defendant shall pay a penalty assessment, 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.

2. 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 a penalty assessment, fine or make restitution defaults in the payment thereof or of any installment, the court, 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 or upon its own motion, may recall him, or issue a summons or a warrant of arrest for his appearance. After a hearing, the court may reduce or suspend the fine or modify the payment or installment plan for the fine, penalty assessment or restitution, or, if none of these alternatives is warranted, may 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. When failure to pay a penalty assessment or restitution is determined to be willful, the failure to do so shall be considered to be contumacious. When a fine, penalty assessment 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, penalty assessment, restitution, or any installment thereof, execution may be levied and such other measures may be taken for the 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 a penalty assessment 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.

3. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 253

AN ACT appropriating \$10,800,000.00 from the "Shore Protection Fund" to finance State projects, and to provide State matching grants to counties and municipalities to research, plan, acquire, develop, construct, and maintain county and municipal shore protection 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 "Shore Protection Fund," created pursuant to section 14 of the "Shore Protection Bond Act of 1983" (P. L. 1983, c. 356), the sum of \$10,800,000.00 to finance State shore protection projects, and to provide State matching grants to counties and municipalities, or agencies thereof, to research, plan, acquire, develop, construct, and maintain county and municipal shore protection projects.

b. The projects to be undertaken are in the following municipalities: Keansburg borough, Sea Girt borough, Lavallette, Dover township, Berkeley township, Harvey Cedars, Brigantine city, Avalon, Atlantic City, Ocean City, Stone Harbor, Salem city, Florence township, Elizabeth city, Spring Lake borough, Burlington city, Belmar, Keyport, Bradley Beach and "unanticipated projects."

c. These shore protection projects shall be consistent, to the greatest extent practicable, with the New Jersey Shore Protection Master Plan prepared by the department pursuant to section 5 of P. L. 1978, c. 157. The department shall utilize the sums appropriated by this act to fund shore protection projects only in municipalities which have implemented dune protection programs approved by the department, which agree to adopt the municipal

ordinances necessary to establish and implement dune protection programs approved by the department, or which can demonstrate to the department's satisfaction that dune protection programs are not technically feasible due to the nature of their shoreline.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P. L. 1983, c. 356, and if any of these projects in subsection b. of section 1 of this act are not undertaken, the funds shall be applied to the projects next on the department's master plan list.

3. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 254

A SUPPLEMENT to "An act concerning consumer fraud, its prevention, and providing penalties therefor," approved June 9, 1960 (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. 56:8-2.23 Disclosure of profit-making nature.

1. It shall be an unlawful practice for any person, other than a charitable or nonprofit organization, engaged in the business of selling used goods, wares or merchandise for profit to solicit, by telephone, by the placement of collection boxes or otherwise, donations of used goods, wares or merchandise for resale for profit, without first disclosing to the person solicited the profit-making nature of the business, or if profits are to be shared with a charitable or nonprofit organization, the portion of profits which that organization will receive. For the purposes of this act, "engaged in the business of selling used goods, wares or merchandise" means anyone who conducts sales more than five times a year.

2. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 255

AN ACT concerning the practice of chiropractic and supplementing chapter 9 of Title 45 of the Revised Statutes.

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

1. Any person who graduated on or after June 1, 1980 from a legally incorporated school or institute of chiropractic after successfully completing a program of study consisting of at least 4300 classroom hours of lectures requiring personal attendance, who holds a license to practice chiropractic in any state in the United States, which license was obtained after passing a written and clinical examination which was given by an official agency of that state and included the subjects of anatomy, microbiology, sanitation, hygiene, chemistry, diagnosis, pathology, physiology, x-ray, and chiropractic principles, who prior to attending that chiropractic school or institute successfully completed not less than two academic years at an accredited college or university, and who is at least 18 years of age and of good moral character, shall, upon making proper application, be eligible to take the clinical examination for a chiropractic license, given by the board, and, upon passing that examination, be granted a license by the board to practice chiropractic in New Jersey.

Persons applying under the special provisions of this act shall present evidence satisfactory to the board that they comply with the provisions of this act, shall make application for a license to the board within 365 days after the effective date of this act and shall pay the appropriate application, examination and licensing fees.

2. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 256

AN ACT concerning the disclosure of patient information by psychologists.

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

C. 45:14B-31 Definitions.

1. As used in this act:

a. "Administrative information" means a patient's name, age, sex, address, educational status, identifying number, date of onset of difficulty, date of initial consultation, dates and character of sessions (individual or group), and fees;

b. "Diagnostic information" means therapeutic characterizations which are of the types that are found in the Diagnostic and Statistical Manual of Mental Disorders (DSM III), of the American Psychiatric Association, or other professionally recognized diagnostic manual;

c. "Disclose" means to communicate any information in any form;

d. "Independent professional review committee" means that group of licensed psychologists established pursuant to section 14 of this act by the State Board of Psychological Examiners;

e. "Third-party payor" means any provider of benefits for psychological services, including but not limited to insurance carriers and employers, whether on an indemnity, reimbursement, service or prepaid basis, but excluding governmental agencies;

f. "Usual, customary or reasonable." In applying this standard the following definitions are applicable:

(1) "Usual" means a practice in keeping with the particular psychologist's general mode of operation;

(2) "Customary" means that range of usual practices provided by psychologists of similar education, experience, and orientation within a similar geographic or socioeconomic area;

(3) "Reasonable" means that there is an acceptable probability that the patient will realize a significant benefit from the continuation of the psychological treatment.

In applying the standards of "usual, customary, and reasonable," the following guidelines are applicable: If a psychological treatment is "usual" or "customary," an inference that the treatment is also "reasonable" is warranted. If the treatment is neither "usual" nor "customary," then it shall satisfy the criterion of "reasonable."

C. 45:14B-32 Disclosure to third-party payor.

2. A patient who is receiving or has received treatment from a licensed, practicing psychologist may be requested to authorize the psychologist to disclose certain confidential information to a third-party payor for the purpose of obtaining benefits from the third-party payor for psychological services, if the disclosure is pursuant to a valid authorization as described in section 6 of this act and the information is limited to:

- a. Administrative information;
- b. Diagnostic information;
- c. The status of the patient (voluntary or involuntary; inpatient or outpatient);
- d. The reason for continuing psychological services, limited to an assessment of the patient's current level of functioning and level of distress (both described by the terms mild, moderate, severe or extreme);
- e. A prognosis, limited to the estimated minimal time during which treatment might continue.

C. 45:14B-33 Independent review.

3. If the third-party payor has reasonable cause to believe that the psychological treatment in question may be neither usual, customary nor reasonable, the third-party payor may request, and compensate reasonably for, an independent review of the psychological treatment by an independent professional review committee. The request shall be made in writing to the treating psychologist. No third-party payor having such reasonable cause shall terminate benefits without following the procedures set forth in section 4 of this act.

C. 45:14B-34 Review procedure.

4. Within 10 days of the receipt of the request for review by a third-party payor, the treating psychologist shall notify the State Board of Psychological Examiners of the request. Pursuant to the

provisions of section 14 of this act, the State Board of Psychological Examiners shall, within 10 days of the notification, inform the treating psychologist of two or more members of the independent professional review committee who shall be known as "reviewers" and who shall conduct the review. Under these circumstances, the patient may, pursuant to a valid authorization as described in section 6 of this act, authorize the treating psychologist to disclose to the reviewers the requested confidential information concerning his treatment. This information shall be disclosed only in accordance with the following procedure described in this section and shall not be disclosed to a third-party payor or any person other than the reviewers and shall not contain any reference to the patient's identification but rather shall refer to an identification number assigned by the third-party payor. If the patient gives a valid written authorization, the reviewers shall, pursuant to the following review procedure and within 20 days from their receipt of the review request from the State Board of Psychological Examiners, certify in writing to the third-party payor whether or not in their opinion the treatment in question is usual, customary or reasonable or if they are unable to make that determination. The treatment review shall take place as follows:

a. The treating psychologist shall provide in writing to the reviewers the following information: the case identification number; the status of the patient; duration and frequency of treatment; the diagnosis; the prognosis; and the level of functioning and the level of distress, both described by the terms mild, moderate, severe or extreme. If on the basis of this information the reviewers can certify that the treatment is usual, customary or reasonable, no further review shall be necessary at that time.

b. If the reviewers cannot make this determination from the information provided, the reviewers shall request the treating psychologist to provide a written statement describing his customary mode of treatment for the particular diagnosis given. If, on the basis of this information, the reviewers can certify that the treatment is usual, customary or reasonable, no further review shall be conducted at that time.

c. If the reviewers cannot make this determination from the information provided, they shall request the treating psychologist to provide details and circumstances concerning the case under review. The reviewers shall then certify to the third-party payor their conclusion as to whether or not the treatment in question is

C. 45:14B-43 Waiver void.

13. Any consent or agreement purporting to waive the provisions of this act shall be against public policy and void.

C. 45:14B-44 Professional review committee.

14. The State Board of Psychological Examiners shall promulgate rules and regulations to establish an independent professional review committee whose members shall serve for a three-year term. Members of the independent professional review committee shall be psychologists who have been licensed in the State of New Jersey for the preceding five years and who are currently and have been for the preceding five years engaged for the majority of their professional work in the practice of psychotherapy. The independent professional review committee shall include three or more psychologists in each of the major theoretical orientations. The State Board of Psychological Examiners may fill vacancies on the committee which may from time to time occur, but no person who has served for a full term shall succeed himself.

C. 45:14B-45 Rules, regulations; report.

15. The State Board of Psychological Examiners shall promulgate rules and regulations to effectuate the purposes of this act, including the establishment of procedural standards for the independent professional review committee and shall seek input from all interested parties on all issues raised in this act. A report shall be submitted by the State Board of Psychological Examiners to the Director of the Division of Consumer Affairs on the implementation of this act within a reasonable period of time.

C. 45:14B-46 Regulatory authority unaffected.

16. Nothing in this act shall be construed to limit the legal authority of the State Board of Psychological Examiners to regulate the practice of psychology in the State of New Jersey.

17. This act shall take effect on the 90th day after enactment, except for sections 14 and 15 which shall take effect immediately and the State Board of Psychological Examiners shall take the steps necessary to implement sections 14 and 15 as soon as possible.

Approved July 31, 1985.

CHAPTER 257

AN ACT concerning certain loans made by savings banks chartered in this State and amending P. L. 1948, c. 67.

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

1. Section 195 of P. L. 1948, c. 67 (C. 17:9A-195) is amended to read as follows:

C. 17:9A-195 Officers and managers; permitted loans.

195. Officers and managers; permitted loans.

The Commissioner of Banking may promulgate rules and regulations for the purpose of establishing the terms and conditions of loans made by a savings bank to its managers, directors and officers and their families and other persons with which the manager, director or officer may be affiliated as stockholder, agent, trustee, partner, endorser, surety or obligor. The rules and regulations may prescribe limits on the amount of liability which may be incurred, establish criteria for the terms and security for the loans and set forth procedures for the review and approval of the loans by the management of the savings bank.

2. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 258

AN ACT concerning the public policy and legislative purpose for the control of alcoholic beverages in this State, amending R. S. 33:1-3, P. L. 1938, c. 208, P. L. 1956, c. 110, P. L. 1939, c. 87, and supplementing Title 33 of the Revised Statutes.

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

1. R. S. 33:1-3 is amended to read as follows:

Alcoholic beverage control.

33:1-3. It shall be the duty of the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety to supervise the manufacture, distribution and sale of alcoholic beverages in such a manner as to fulfill the public policy and legislative purpose of this act as expressed in section 4 of P. L. 1985, c. 258 (C. 33:1-3.1).

2. Section 5 of P. L. 1956, c. 110 (C. 33:1-39.2) is amended to read as follows:

C. 33:1-39.2 Regulation of sales to consumers.

5. The Director of the Division of Alcoholic Beverage Control shall, in accordance with R. S. 33:1-39, make and promulgate such rules and regulations with respect to sales by licensees selling to consumers relative to the following subjects as will assist in properly supervising the alcoholic beverage industry and preventing discrimination in the alcoholic beverage industry:

(a) Gifts of things of value in connection with or as an inducement to the purchase of malt alcoholic beverages,

(b) Combination sales of malt alcoholic beverages of different brands, of different manufacturers, of different names or trade names, or combination sales of any alcoholic beverages and other merchandise,

(c) Publication and maintenance of prices at which malt alcoholic beverages may be sold within recognized trading areas or below which malt alcoholic beverages may not be sold within such areas.

3. Section 5 of P. L. 1939, c. 87 (C. 33:1-93) is amended to read as follows:

C. 33:1-93 Regulation of sales to retailers.

5. The Director of the Division of Alcoholic Beverage Control is hereby vested with power to promulgate such rules and regulations on the following subjects as will assist in properly supervising the alcoholic beverage industry: (a) maximum discounts, rebates, free goods, allowances and other inducements to retailers by manufacturers, wholesalers and other persons privileged to sell to retailers; (b) gifts and deliveries of money, products and other things of value by manufacturers, wholesalers, other persons privileged to sell to retailers, their stockholders, officers, directors and employees, to retailers, their stockholders, directors, officers and employees; (c) maintenance and publication of invoice prices, discounts, rebates, free goods, allowances and other inducements; and

(d) such other matters as may be necessary to fulfill the restrictions embodied in this act.

C. 33:1-3.1 Short title; findings, declarations.

4. (New section) a. Title 33 of the Revised Statutes (R. S. 33:1-1 et seq.) shall be known and may be cited as the "New Jersey Alcoholic Beverage Control Act."

b. The Legislature hereby finds and declares as the public policy of this State and the legislative purpose of Title 33 the following:

(1) To strictly regulate alcoholic beverages to protect the health, safety and welfare of the people of this State.

(2) To foster moderation and responsibility in the use and consumption of alcoholic beverages.

(3) To protect the collection of State taxes imposed upon alcoholic beverages.

(4) To protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages.

(5) To protect against the infiltration of the alcoholic beverage industry by persons with known criminal records, habits or associations. Participation in the industry as a licensee under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the licensee.

(6) To provide a framework for the alcoholic beverage industry that recognizes and encourages the beneficial aspects of competition.

(7) To maintain trade stability.

(8) To maintain a three-tier (manufacturer, wholesaler, retailer) distribution system.

(9) To maintain primary municipal control over the retailing of alcoholic beverages.

(10) To prohibit discrimination in the sale of alcoholic beverages to retail licensees.

5. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 259

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

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

1. All proceedings heretofore had or taken by any municipality or county or by any officials thereof for or in connection with the authorization or issuance of bonds or notes of the municipality or county pursuant to the "Local Bond Law" (N. J. S. 40A:2-1 et seq.) and any ordinance with respect to such bonds or notes heretofore adopted and any bonds or notes of the municipality or county issued or to be issued in pursuance of such proceedings or ordinance, are hereby ratified, validated and confirmed notwithstanding that a supplemental debt statement was not prepared and filed as required by the provisions of N. J. S. 40A:2-10; provided, however, that a supplemental debt statement heretofore has been prepared and filed in the places required by N. J. S. 40A:2-10 and provided further that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 260

AN ACT concerning boards of education and amending N. J. S. 18A:20-9.

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

1. N. J. S. 18A:20-9 is amended to read as follows:

Conveyance of school property for public purposes.

18A:20-9. Whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance thereof, whether there is a building thereon or not, for a nominal consideration, to the municipality or any board, body or commission thereof, or to any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated under the laws of the State of New Jersey, or to a nonprofit hospital duly licensed under the laws of the State. The president and secretary of the board shall be authorized to execute and deliver a conveyance for the same in the name and under the seal of the board, which conveyance may, in the discretion of the board, be made subject to a condition or limitation that said land shall be used by such municipality, board, body or commission thereof for public purposes and by any such fire company for fire company purposes or by such rescue squad for rescue squad purposes and in such case should such property cease to be used for such purposes or if any property conveyed pursuant to this section to any veterans' organization, or to any child care service organization, or to any nonprofit hospital cease to be used for any of the purposes contemplated by this section, such property shall thereupon revert to and the title thereof shall vest in the board of education making the conveyance thereof hereunder.

2. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 261

AN ACT concerning the taxation of cigarettes and amending P. L. 1948, c. 65 and P. L. 1982, c. 40.

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

1. Section 301 of P. L. 1948, c. 65 (C. 54:40A-8) is amended to read as follows:

C. 54:40A-8 Tax imposed; rate.

301. Tax imposed; rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of \$0.09½ for each 10 cigarettes or fraction thereof and a surtax equal to a percent of the average wholesale price, which percent shall be the same as the rate of tax imposed on retail sales pursuant to the "Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et seq.), rounded to the next highest cent but not less than \$0.02½ for each 10 cigarettes or fraction thereof. For packs containing 25 cigarettes the tax shall be 125% of the tax and surtax on packs containing 20 cigarettes.

2. Section 4 of P. L. 1982, c. 40 (C. 54:40A-8.2) is amended to read as follows:

C. 54:40A-8.2 Surtax determination.

4. For the purpose of computing the surtax pursuant to section 301 of P. L. 1948, c. 65 (C. 54:40A-8), the Director of the Division of Taxation shall determine and cause to be published every six months commencing January 1, 1983, the average wholesale price of cigarettes in the State based upon the best available current data. Using the price so determined as the base price, the director shall determine, and notify all persons required to report under this act, and cause to be published in the New Jersey Register, the cigarette surtax due pursuant to section 301 of P. L. 1948, c. 65 (C. 54:40A-8) on each 10 cigarettes or fraction thereof, expressed in cents, rounded up to the nearest cent, during the succeeding six months; except that in the case of cigarettes packaged with 25 cigarettes the surtax shall be determined with respect to that quantity, expressed in cents, rounded up to the nearest cent, during the succeeding six months.

3. Section 401 of P. L. 1948, c. 65 (C. 54:40A-11) is amended to read as follows:

C. 54:40A-11 Director to provide revenue stamps.

401. Director to provide revenue stamps. The taxes imposed and levied by this act shall be paid through the use of stamps, except as provided in section 205 (Consumers) of this act. The director shall secure stamps of such designs and denominations as he shall prescribe, suitable to be affixed to packages, and provide for the

sale thereof to licensed distributors. Only licensed distributors shall affix and cancel stamps and no distributor shall affix or cancel any stamp except at the tax rate in effect on the date of such affixing or cancellation; except that on the effective date of a tax rate increase or of a surtax or of an increase in a surtax, imposed under this act, licensed distributors and wholesale dealers must take a physical inventory of cigarettes on hand at the close of business prior to the date of the tax increase or surtax or surtax increase imposed under this act and must pay any additional tax for all cigarettes bearing stamps at the rate in effect prior to the tax increase. The director shall prescribe the method of collecting the additional tax. The director shall not authorize any person to sell revenue stamps except his duly constituted agents and assistants. On sales of revenue stamps the director shall allow, as compensation for the services and expenses of the distributor in affixing and handling of such stamps, a discount of 1.156% of the face amount of any sale of 1,000 stamps or more; provided, that the distributor has complied with all the provisions of this act, and provided, however, that the director shall be empowered to adjust such discount whenever an increase in the surtax is required under section 4 of P. L. 1982, c. 40 (C. 54:40A-8.2); and provided, further, however, that the director shall be empowered to adjust such discount to provide equivalent compensation with respect to the face value of each 1,000 stamps or more required for packages of cigarettes which contains 25 cigarettes. No discount shall be allowed on any sale of less than 1,000 stamps and stamps shall not be sold in blocks of less than 100 stamps.

4. This act shall take effect on the first day of the second month next following enactment.

Approved July 31, 1985.

CHAPTER 262

AN ACT concerning certain law enforcement officers in the Public Employees Retirement System and certain members of the Police and Firemen's Retirement System and amending P. L. 1955, c. 257 and 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. 1955, c. 257 (C. 43:15A-97) is amended to read as follows:

C. 43:15A-97 "Law enforcement officer" definition.

1. "Law enforcement officer" shall mean any permanent and full-time employee of the State of New Jersey holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, and highway patrol officer, sergeant highway patrol bureau, lieutenant highway patrol bureau, captain highway patrol bureau, assistant chief highway patrol bureau, chief highway patrol bureau in the Division of State Police, and inspector, investigator, and administrative inspector in the Division of Alcoholic Beverage Control, and inspector recruit alcoholic beverage control, inspector alcoholic beverage control, senior inspector alcoholic beverage control, principal inspector alcoholic beverage control, supervising inspector alcoholic beverage control in the Division of State Police, and conservation officer, assistant district conservation officer and district conservation officer in the Division of Fish and Game, and assistant chief marine police and senior marine patrolman in the Division of Resource Development, and marine police officer, senior marine police officer, principal marine police officer in the Division of State Police, and inspector, officer, senior inspector, and principal inspector in the Division of Shell Fisheries, any permanent and full-time active county detective, lieutenant of county detectives, captain of county detectives, chief of county detectives, and county investigator in the offices of the county prosecutors, and sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the offices of the county sheriffs and any patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14-21.

If the Prison Officers' Pension Fund is terminated as provided in section 10 hereof, "law enforcement officer" shall also mean any permanent and full-time active employee of the State of New Jersey holding the title of correction officer, correction sergeant, correction lieutenant, correction captain or deputy keeper in the Division of Correction and Parole, or any member of the Prison Officers' Pension Fund on the date of such termination.

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

C. 43:16A-1 Police and Firemen's Retirement System 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) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator, or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to his transfer to a position within the department not otherwise covered by the retirement system. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, and highway patrol officer, sergeant highway patrol bureau, lieutenant highway patrol bureau, captain highway patrol bureau, assistant chief highway patrol bureau, chief highway patrol bureau in the Division of State Police and alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, and inspector recruit alcoholic beverage control, inspector alcoholic beverage control, senior inspector alcoholic beverage control, principal inspector alcoholic beverage control, supervising inspector alcoholic beverage control in the Division of State Police and conservation officer, assistant district conservation officer, district conservation officer, chief conservation officer and chief, bureau of law enforcement in the Division of Fish, Game, and Wildlife, ranger and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden in the Forest Fire Service, Department of Environmental Protection, chief, Bureau of Forest Fire Management, State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire) in the Bureau of Forest Fire Management, Department of Environmental Protection, and marine police officer, senior marine

police officer, principal marine police officer in the Division of State Police, and marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, and State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, investigator, senior investigator, principal investigator, assistant chief investigator, chief investigator and Director of Custody Operations I, II, III in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator, supervisor of electronics and investigations, and county investigator in the offices of the county prosecutors, county sheriff, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the offices of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, chief investigator, assistant chief investigator, senior investigator and investigator in a county welfare agency in a county of the first class, if the county adopts an ordinance or resolution, as appropriate, pursuant to subsection a. of section 2 of P. L. 1985, c. 221 (C. 43:16A-62.3), and police officer capitol police, senior police officer capitol police in the Division of State Police and patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14-21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(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 either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any 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 work day.

(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.

3. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 263

AN ACT to permit independent institutions of higher education to participate in State purchasing contracts.

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

C. 52:25-16.5 Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Purchase and Property in the Department of the Treasury.

b. "Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license, is a nonprofit educational institution authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

C. 52:25-16.6 Independent college purchases under State contracts.

2. a. An independent institution of higher education may purchase materials, supplies and equipment under any contract negotiated on behalf of the State by the Director of the Division of Purchase and Property, subject to such rules as the director may establish.

b. The director may establish limitations with respect to commodities available for purchase and impose other appropriate conditions upon purchasing as deemed necessary to protect the State's own purchasing interests.

C. 52:25-16.7 \$500 minimum.

3. Each purchase made by an independent institution of higher education pursuant to this act shall have a cost of \$500.00 or more and the college or university shall accept sole responsibility for the payment of any cost due to the vendor.

C. 52:25-16.8 Distribution of contract data.

4. The director shall annually distribute to each independent institution of higher education a list of all current contracts entered into on behalf of the State. The list shall provide information on the materials, supplies or equipment included in the contracts and the prices, terms and conditions thereof.

C. 52:25-16.9 Rules, regulations.

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

6. This act shall take effect on July 1, 1985.

Approved July 31, 1985.

CHAPTER 264

AN ACT concerning motor vehicle drivers' licenses and amending
P. L. 1979, c. 261 and R. S. 39:3-10.

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

1. Section 1 of P. L. 1979, c. 261 (C. 39:3-10f) is amended to read as follows:

C. 39:3-10f Photo-licenses optional on renewal.

1. In addition to the requirements for the form and content of a motor vehicle driver's license under R. S. 39:3-10, each initial New Jersey license issued to a person under the age of 21 after the effective date of this act shall have a color photograph of the licensee. Each initial motor vehicle license issued to a person 21 years of age or older on or after May 1, 1982, shall have a color photograph of the licensee. At the option of the licensee, a renewal of any motor vehicle driver's license shall be either a photo-license or a license that does not bear a photograph of the licensee. All licenses bearing a color photograph of the licensee as provided in this act shall be valid for a period of 48 calendar months.

To replace a photo-license for a licensee who is temporarily out of this State, the director may issue a "valid without photo" photo-license for the unexpired term of the license.

2. R. S. 39:3-10 is amended to read as follows:

Drivers' licenses; 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 forty-eighth calendar month following the calendar month in which such license was issued.

The director may, at his discretion and for good cause shown, issue licenses which shall expire on a date fixed by him. The fee for such licenses shall be fixed by the director in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement	\$8.00
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 driver's license shall have the legal name of the licensee endorsed thereon in his own handwriting. For purposes of this section, legal name shall mean the name recorded on a birth certificate unless otherwise changed by marriage, divorce or order of court. The director may require that only the legal name be recorded on the driver's license. A licensee whose name is changed due to marriage, divorce, or by judgment of the court shall notify the director of the change in name within two weeks after the change is made. A person who violates this provision shall be subject to a penalty of not more than \$10.00.

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.

3. This act shall take effect immediately.

Approved July 31, 1985.

CHAPTER 265

AN ACT concerning the time for filing post-tax year income statements for certain property tax deductions for tax year 1984 and supplementing P. L. 1963, c. 172 (C. 54:4-8.40 et seq.).

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

1. Notwithstanding the provisions of P. L. 1963, c. 172 (C. 54:4-8.40 et seq.), or any other law, rule or regulation to the contrary, a post-tax year statement of a claimant's income for tax year 1984 for the senior citizen's deduction or the deduction for the permanently and totally disabled under that act, may be filed

with the collector of the taxing district on or before September 1, 1985.

Upon the failure of any person to file the statement within the time provided in this act or to submit such proof as the collector deems necessary to verify a statement that has been so filed, or if it is determined that the income of any person exceeded the \$10,000.00 income limitation for tax year 1984, his deduction for the tax shall be disallowed and his taxes to the extent represented by the amount of said deduction shall be payable on or before October 1, 1985, after which date if unpaid, the taxes shall be delinquent, constitute a lien on the property, and, in addition, the amount of the taxes shall be a personal debt of that person, as otherwise provided by P. L. 1963, c. 172 (C. 54:4-8.40 et seq.).

2. The Director of the Division of Taxation shall promulgate rules and regulations necessary to effectuate the purposes of this act pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), except that nothing in this act shall be construed to permit the State Treasurer to reduce the total dollar amount of the deductions due to be paid to a taxing district on November 1, 1985 as the result of any 1984 deduction previously disallowed solely due to the failure to timely file a post-tax year income statement, for which that statement is filed under section 1 of this act.

3. This act shall take effect immediately and be retroactive to February 1, 1985.

Approved July 31, 1985.

CHAPTER 266

AN ACT providing an exemption from the sales and use tax for machinery, apparatus or equipment used for cogeneration, and amending P. L. 1980, c. 105.

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

1. Section 25 of P. L. 1980, c. 105 (C. 54:32B-8.13) is amended to read as follows:

C. 54:32B-8.13 Sales, use tax exemptions.

25. Receipts from the following are exempt from the tax imposed under the Sales and Use Tax Act:

a. Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining;

b. Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production, generation, transmission or distribution of gas, electricity, refrigeration, steam or water for sale or in the operation of sewerage systems;

c. Sales of telephone lines, cables, central office equipment or station apparatus, or other machinery, equipment or apparatus, or comparable telegraph equipment, for use directly and primarily in receiving at destination or initiating, transmitting and switching telephone or telegraph communication;

d. Sales of machinery, apparatus, equipment, building materials, or structures or portions thereof, used directly and primarily for cogeneration in a cogeneration facility. As used in this subsection, "cogeneration facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub. L. 95-617. The Commissioner of the Department of Energy, in consultation with the Director of the Division of Taxation, shall adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations establishing technical specifications for eligibility for the exemption provided in this subsection.

The exemptions granted under this section shall not be construed to apply to sales, otherwise taxable, of machinery, equipment or apparatus whose use is incidental to the activities described in subsections a., b., c., and d. of this section.

The exemptions granted in this section shall not apply to motor vehicles or to parts with a useful life of one year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this section.

2. This act shall take effect immediately.

Approved August 2, 1985.

CHAPTER 267

AN ACT to amend "An act concerning banking and banking institutions (Revision of 1948)," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 213 of P. L. 1948, c. 67 (C. 17:9A-213) is amended to read as follows:

C. 17:9A-213 Limitations on exercise of powers.

213. Limitations on exercise of powers.

Except as otherwise provided by law, only a banking institution shall exercise within this State any of the powers enumerated in paragraph (4) of section 24 (C. 17:9A-24), paragraphs (4), (5) and (13) of section 25 (C. 17:9A-25), and paragraphs (1) and (5) of section 26 (C. 17:9A-26), and except as otherwise provided in this section, no corporation other than a qualified bank shall exercise within this State any of the powers specified in paragraphs (3), (4), (5), (6), (7), (8) and (9) of section 28 (C. 17:9A-28), provided that no corporation organized prior to March 24, 1899, authorized to exercise all or any of the powers specified in paragraph (1) of section 25 (C. 17:9A-25) or in paragraph (3) of section 28 (C. 17:9A-28), shall be prohibited from exercising such powers, and further provided that no qualified corporation, as hereinafter defined, which was organized pursuant to the laws of this State prior to January 1, 1972, or which was authorized to transact business in this State prior to January 1, 1972, and which was organized expressly to exercise all or any of the powers specified in paragraph (3) of section 28 (C. 17:9A-28), or in paragraph (13) of section 25 (C. 17:9A-25), shall be prohibited from exercising such powers, and further provided that a qualified corporation as herein defined may be organized after the effective date of this 1985 amendatory act to exercise, and may exercise, all or any of the powers specified in paragraph (3) of section 28 of P. L. 1948, c. 67 (C. 17:9A-28) or in paragraph (13) of section 25 of P. L. 1948, c. 67 (C. 17:9A-25) for or on behalf of an investment company or a unit investment trust if the qualified corporation is wholly owned by, or controlled by, or is under common control,

either directly or indirectly, with an investment adviser or principal underwriter of the investment company, or a depositor or principal underwriter of the unit investment trust, or for or on behalf of any affiliated corporation. For the purposes of this 1985 amendatory act, "affiliated corporation" means a corporation which is wholly owned by, or controlled by, or is under common control, either directly or indirectly, with a corporation which wholly owns or controls or is under common control, either directly or indirectly, with the qualified corporation which is to exercise the powers specified in paragraph (3) of section 28 of P. L. 1948, c. 67 (C. 17:9A-28) or in paragraph (13) of section 25 of P. L. 1948, c. 67 (C. 17:9A-25), and the terms "investment company," "investment adviser," "principal underwriter," and "unit investment trust" shall have the same meaning as is set forth in the "Investment Company Act of 1940," 54 Stat. 789 (15 U. S. C. § 80a-1 et seq.). A qualified corporation shall mean a domestic corporation or a foreign corporation authorized to transact business in this State which (a) has such capital, surplus and undivided profits as may be fixed by the Commissioner of Banking commensurate with the nature and volume of its business; (b) has adequate vault or other safe keeping facilities for the safeguarding of stocks and other securities received, processed or otherwise held for the account of customers; and (c) is adequately insured, as may be provided by regulation, to protect its customers and the holders or transferees of securities issued by its customers.

A qualified corporation shall be subject to any regulations which may be adopted by the Commissioner of Banking and subject to examination by the Department of Banking to ensure compliance with any such regulations. The Commissioner of Banking may require such qualified corporations to file such reports as from time to time he deems necessary to enable him to determine compliance with any regulations which may be issued by him.

2. This act shall take effect immediately.

Approved August 2, 1985.

CHAPTER 268

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. The following items of P. L. 1985, c. 209, are amended to read as follows:

DIRECT STATE SERVICES

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

44 Hazardous and Toxic Pollution Control

There is appropriated from the New Jersey Spill Compensation Fund such sums as may be required for the support of cleanup operations in accordance with the provisions of C58:10-23.11 et seq., subject to the approval of the Director of the Division of Budget and Accounting; provided, however, that expenditures for the department's non-site specific administrative costs associated with the Fund shall not exceed \$750,000.

A sum not to exceed \$600,000 is appropriated from interest earned by the New Jersey Spill Compensation Fund for research and development on the prevention, effects, and improved cleanup criteria and removal operation methods of spills of hazardous substances, provided such sums are available subject to the approval of the Director of the Division of Budget and Accounting.

46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services

03-4230 Epidemiology and Disease Control

There is appropriated out of the Worker and Community Right to Know Fund such sums as may be necessary to carry out the provisions of the Worker and Community Right to Know Act, C34:5A-1 et seq., provided, however, that if there are insufficient funds to support this program such additional sums as determined by the Director of the Division of Budget and Accounting shall be made available, provided, however, that this amount shall not exceed \$545,000.

50 DEPARTMENT OF HIGHER EDUCATION

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

5630 University of Medicine and Dentistry of New Jersey

11-5630	Instruction	\$58,027,000
12-5630	Sponsored Programs and Research	27,191,000
13-5630	Extension and Public Services	105,290,000
14-5630	Auxiliary Services	1,673,000
15-5630	Academic Support	1,276,000
16-5630	Student Services	1,674,000
17-5630	Institutional Support	17,871,000
19-5630	Physical Plant and Support Services	28,606,000
20-5630	Core Affiliates	2,903,000
	Total All Operations	\$244,511,000

Less:

General services income	(\$16,433,000)
Special services income	(27,191,000)
Capital facilities allowance	(6,529,000)
Auxiliary services income	(1,673,000)
Hospital services income	(73,447,000)

Core affiliates income	(2,903,000)	
Rutgers Medical School Com- munity Mental Health Center income	(10,338,000)	
New Jersey Medical School Com- munity Mental Health Center income	(4,719,000)	
Total Income Deductions		\$143,233,000
Total Appropriation		<u>\$101,278,000</u>
Personal Services:		
Salaries and wages	(\$130,723,000)	
Materials and Supplies	(34,396,000)	
Services Other Than Personal	(19,604,000)	
Maintenance and Fixed Charges ...	(5,131,000)	
Special Purpose:		
Board of Trustees planning fund.	(19,000)	
Debt Service—High Technology Initiative	(1,593,000)	
University student aid	(709,000)	
Research under contract with the Institute of Medical Research, Camden	(440,000)	
Neurological consultation services	(270,000)	
Core affiliate—Rutgers Medical School—Piscataway	(1,883,000)	
Core affiliate—New Jersey School of Osteopathic Medicine	(1,020,000)	
Area Health Education Center ...	(338,000)	
Additions, Improvements and Equip- ment	(4,464,000)	
Special Funds expense	(27,191,000)	
Auxiliary Funds expense	(1,673,000)	
Rutgers Medical School Community Mental Health Center	(10,338,000)	
New Jersey Medical School Commu- nity Mental Health Center	(4,719,000)	

Less:

Total Income

Deduction (\$143,233,000)

Total Appropriation, University of Medicine
and Dentistry\$101,278,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security

52 Economic Regulation

There are appropriated out of the Worker and Community Right to Know Fund such sums as are necessary to carry out the provisions of C34:5A-1 et seq., provided, however, that if there are insufficient funds to support this program such additional sums as determined by the Director of the Division of Budget and Accounting shall be made available, provided, however, that this amount shall not exceed \$25,000.

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

12 Law Enforcement

Receipts in excess of \$583,000 derived from license fees collected or audits conducted to insure compliance with the Private Detective Act of 1939, C45:19-8 et seq., are appropriated to defray the cost of this activity.

80 Special Government Services

82 Protection of Citizens' Rights

The amount hereinabove for each of the several State professional boards, advisory boards, and committees shall be provided from receipts of such entities and any receipts in excess of the amounts specifically provided to each of said entities are appropriated.

STATE AID

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management—State Aid

Of the sum available for prevention of homelessness, a sum not to exceed \$350,000 may be used for program administration.

CASINO REVENUE FUND

STATE AID

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

24 Special Health Services

From the sums appropriated hereinabove for payments to medically needy recipients, 20% is allocated for the administration of this program, subject to the approval of the Director of the Division of Budget and Accounting.

2. In addition to the sums appropriated under P. L. 1985, c. 209, there are appropriated out of the General Fund the following sums for the purposes specified:

DIRECT STATE SERVICES

LEGISLATIVE BRANCH

01 Legislature

70 Government Direction, Management and Control

71 Legislative Activities

0003 Office of Legislative Services

03-0003	Legislative Support Services	\$100,000
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Total Appropriation, Office of Legislative Services	\$100,000
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Personal Services:
New positions(\$100,000)

Legislative Commissions

0010 Intergovernmental Relations Commission

09-0010	Intergovernmental Relations Commission	\$4,000
	<hr/>	
	Total Appropriation, Intergovernmental Relations Commission	\$4,000
		<hr/>
Special Purpose:		
	National Governors' Association ... (\$4,000)	
	Total Appropriation, Legislative Branch ...	\$104,000
		<hr/> <hr/>

EXECUTIVE BRANCH

10 DEPARTMENT OF AGRICULTURE

40 Community Development and Environmental Management

42 Natural Resource Management

03-3330	Resource Development Services	\$50,000
	<hr/>	
	Total Appropriation, Natural Resource Management	\$50,000
		<hr/>

Special Purpose:

Fish and seafood development and
promotion (\$50,000)

50 Economic Planning, Development and Security

51 Economic Planning and Development

06-3360	Marketing Services	\$790,000*
	<hr/>	
	Total Appropriation, Economic Planning and Development	\$790,000*
		<hr/>

Special Purpose:

Agricultural fairs and shows (\$40,000*)
Promotion/market development .. (250,000)
Horse park development (500,000)

Total Appropriation, Department of
Agriculture \$840,000*

18 DEPARTMENT OF CIVIL SERVICE

70 Government Direction, Management and Control

74 General Government Services

02-2720	Recruitment and Selection	\$225,000
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Total Appropriation, General Government Services		\$225,000
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Special Purpose:

Priority recruitment, selection and placement	(\$225,000)
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Total Appropriation, Department of Civil Service		\$225,000
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20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development

20-2800	Economic Development	\$430,000
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21-2850	International Trade	50,000
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22-2860	Travel and Tourism	110,000*
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Total Appropriation, Economic Planning and Development		\$590,000*
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Special Purpose:

Atlantic City air service study ...	(\$10,000*)
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Minority and women-owned business certification per Executive	
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Order No. 46	(180,000)
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Small Business Development Center	(250,000)
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International trade staff augmentation	(50,000)
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Tourist matching grants for counties	(100,000)
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Total Appropriation, Department of Commerce and Economic Development ...		\$590,000*
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Special Purpose:

Outward Bound for Camden Youths (\$150,000)

Total Appropriation, Department of Corrections	\$1,576,000
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30 DEPARTMENT OF DEFENSE

10 Public Safety and Criminal Justice

14 Military Services

02-3600 Management of National Guard Installa- tions	\$231,000
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Total Appropriation, Military Services	\$231,000
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Maintenance and Fixed Charges

Additions, Improvements and

Equipment

Total Appropriation, Department of Defense.	\$231,000
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38 DEPARTMENT OF ENERGY

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

10-4050 Public Broadcasting Services	\$390,000*
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Total Appropriation, Cultural and Intellectual Development Services	\$390,000*
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Special Purpose:

Channel 13 WNET Newark

WBGO-FM Newark

Total Appropriation, Department of Energy	\$390,000*
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42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

15-4890	Marine Lands Management	\$150,000
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Total Appropriation, Natural Resource Management	\$150,000
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Personal Services:

Salaries and wages	(\$150,000)
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44 Hazardous and Toxic Pollution Control

23-4910	Waste Management	\$1,068,000
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Total Appropriation, Hazardous and Toxic Pollution Control	\$1,068,000
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Special Purpose:

Privatization implementation	(\$1,033,000)
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Kinsley landfill freshwater monitoring	(35,000)
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45 Recreational Resource Management

12-4875	Parks Management	\$100,000
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Total Appropriation, Recreational Resource Management	\$100,000
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Special Purpose:

Morven maintenance	(\$100,000)
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Total Appropriation, Department of Environmental Protection	\$1,318,000
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46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services

02-4220	Local and Community Health Services ..	\$4,857,000*
04-4240	Narcotic and Drug Abuse Control	300,000
	Total Appropriation, Health Services	<u>\$5,157,000*</u>

Special Purpose:

Institute for Alzheimer's Disease and Related Disorders of UMDNJ Community Mental Health Center of Rutgers Medical School	(\$500,000)
AIDS screening and treatment	(2,000,000)
Expanded nursing home inspections (407,000)
Inmate residential drug treatment program	(300,000)

Grants:

County rape crisis centers	(150,000*)
Prenatal programs:	
North Hudson Community Center (100,000)
Community based drug programs— State share	(700,000*)
State Commission on Cancer Research	(1,000,000*)

Total Appropriation, Department of Health	<u><u>\$5,157,000*</u></u>
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The unexpended balances in the Lead poisoning program, PL 1985, c. 84 (C26:2-130 et seq.), as of June 30, 1985 are appropriated.

The receipts from the tax on the sale of alcoholic beverages on deposit in the Alcohol Education, Rehabilitation and Enforcement Trust Fund pursuant to C54:32C-3 are appropriated.

50 DEPARTMENT OF HIGHER EDUCATION

30 Educational, Cultural and Intellectual Development

36 Higher Education Services

5400 Office of the Chancellor

02-5400	Support to Independent Institutions	\$1,900,000*
04-5400	Student Financial Support Services	387,000*
99-5400	Management and Administrative Services	1,080,000*
Total Appropriation, Office of the Chancellor		<u>\$3,467,000*</u>

Special Purpose:

State College Autonomy Adminis-
tration computing augmentation (\$1,000,000*)
Marine Sciences Consortium(80,000)

Grants:

Aid to independent colleges and
universities(1,900,000*)
Vietnam veterans' tuition aid and
tuition credit programs(357,000*)
MIA-POW grants(30,000)

5450 Thomas A. Edison State College

17-5450	Institutional Support	\$245,000
Total Appropriation, Thomas A. Edison State College		<u>\$245,000</u>

Special Purpose:

Automation and program support
project(\$245,000)

5500 Glassboro State College

13-5500	Extension and Public Service	\$66,000
19-5500	Physical Plant Support Services	100,000*
Total Appropriation, Glassboro State College		<u>\$166,000*</u>

Special Purpose:

Camden Urban Center	(\$66,000)
Additions, Improvements and Equip- ment	(100,000*)

5600 Rutgers, The State University

Rutgers University Programs

12-5600 Sponsored Programs and Research	\$500,000*
15-5600 Academic Support	1,000,000*
17-5600 Institutional Support	700,000
	<hr/>
Total, All Operations	\$2,200,000*

Special Purpose:

New Jersey Agricultural Museum ..	(\$500,000*)
In-lieu payments to New Brunswick.	(700,000)
Excellence Initiative	(1,000,000*)

5620 Agricultural Experiment Station

12-5620 Sponsored Programs and Research	\$950,000*
13-5620 Extension and Public Service	400,000*
	<hr/>
Total, All Operations	\$1,350,000*

Personal Services:

Salaries and wages	(\$730,000*)
Materials and Supplies	(26,000*)
Services Other Than Personal	(494,000*)

Special Purpose:

Urban gardening	(100,000)
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Total Appropriation, Rutgers, The State University	\$3,600,000*
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5630 University of Medicine and Dentistry of New Jersey

The provision in the fiscal year 1985 appropriation act, PL 1984, c. 58, requiring the University of Medicine and Dentistry of New Jersey to credit the first \$4,200,000 in Hospital services income to the General Fund as anticipated revenue is hereby revoked.

5640 New Jersey Institute of Technology

11-5640	Instruction	\$450,000*
17-5640	Institutional Support	150,000*
	Total, All Operations	<u>\$600,000*</u>
Special Purpose:		
	Updating and improving instructional equipment	(\$450,000*)
	Computer networking	(150,000*)
	Total Appropriation, Department of Higher Education	<u><u>\$7,928,000*</u></u>

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

23 Mental Health Services

7710 Greystone Park Psychiatric Hospital

10-7710	Patient Care and Health Services	\$490,000
	Total Appropriation, Greystone Park Psychiatric Hospital	<u>\$490,000</u>

Personal Services:		
	Salaries and wages	(\$490,000)

7720 Trenton Psychiatric Hospital

10-7720	Patient Care and Health Services	\$323,000
	Total Appropriation, Trenton Psychiatric Hospital	<u>\$323,000</u>

Personal Services:		
	Salaries and wages	(\$323,000)

7725 The Forensic Psychiatric Hospital

10-7725	Patient Care and Health Services	\$116,000
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Total Appropriation, The Forensic Psychiatric Hospital		\$116,000
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Personal Services:

Salaries and wages	(\$116,000)
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7730 Marlboro Psychiatric Hospital

10-7730	Patient Care and Health Services	\$466,000
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Total Appropriation, Marlboro Psychiatric Hospital		\$466,000
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Personal Services:

Salaries and wages	(\$466,000)
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7740 Ancora Psychiatric Hospital

10-7740	Patient Care and Health Services	\$473,000
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Total Appropriation, Ancora Psychiatric Hospital		\$473,000
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Personal Services:

Salaries and wages	(\$473,000)
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7750 Arthur Brisbane Child Center at Allaire

10-7750	Patient Care and Health Services	\$50,000
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Total Appropriation, Arthur Brisbane Child Center at Allaire		\$50,000
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Personal Services:

Salaries and wages	(\$50,000)
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7760 Glen Gardner Center for Geriatrics

10-7760	Patient Care and Health Services	\$82,000
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Total Appropriation, Glen Gardner Center
for Geriatrics \$82,000

Personal Services:
Salaries and wages (\$82,000)

24 Special Health Services

7540 Division of Medical Assistance and Health Services

21-7540 Health Services Administration and
Management \$702,000

Total Appropriation, Division of Medical
Assistance and Health Services \$702,000

Special Purpose:
Payments to fiscal agents (\$702,000)

30 Educational, Cultural and Intellectual Development

32 Operation and Support of Educational Institutions

7600 Division of Developmental Disabilities

01-7600 Purchased Residential Care \$368,000
02-7600 Social Supervision and Consultation 497,000
03-7600 Adult Activities 1,585,000

Total Appropriation, Division of
Developmental Disabilities \$2,450,000

Special Purpose:
Purchased residential care (\$368,000)
Social supervision and consultation(497,000)
Adult activities (535,000)
Expansion of adult activities (1,000,000)

Grant:
Camp Hope for the Retarded (50,000)

7620 Vineland Developmental Center

98-7620	Physical Plant and Support Services	\$202,000*
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Total Appropriation, Vineland Developmental Center		\$202,000*
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Special Purpose:

Two buses for non-ambulatory clients	(\$50,000)
Twenty-five specialized therapeutic wheelchairs	(50,000)
Furnishings non-ICF cottages	(84,000)
Furnishings central dining areas . . .	(18,000)

7670 Hunterdon Developmental Center

07-7670	Education and Training	\$300,000
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Total Appropriation, Hunterdon Developmental Center		\$300,000
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Special Purpose:

Hunterdon adult education program	(\$300,000)
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7690 North Princeton Developmental Center

99-7690	Management and Administrative Services	\$300,000
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Total Appropriation, North Princeton Developmental Center		\$300,000
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Special Purpose:

Employee sponsored day care center—pilot project	(\$300,000)
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33 Supplemental Education and Training Programs

7560 Commission for the Blind and Visually Impaired

12-7560	Instruction and Community Programs	\$149,000
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Total Appropriation, Commission for the Blind and Visually Impaired	\$149,000
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Special Purpose:
Services to aging out clientele (\$149,000)

55 Related Social Services Programs

7570 Division of Youth and Family Services

17-7570 Substitute Care	\$390,000
18-7570 General Social Services	2,638,000*

Total Appropriation, Division of Youth and Family Services	\$3,028,000*
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Special Purpose:
Services for aging out clientele (\$1,800,000)
Child assault prevention program .. (375,000*)
Community services—Family courts(435,000*)

Grants:

Martin Luther King Youth Center— Bridgewater	(28,000)
Shelters and services for battered spouses	(250,000)
Somerset Youth Center	(140,000)

70 Government Direction, Management and Control

76 Management and Administration

7500 Division of Management and Budget

99-7500 Management and Administrative Services	\$350,000
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Total Appropriation, Division of Management and Budget	\$350,000
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Special Purpose:
Governor's Committee on Children's
Services Planning

(\$350,000)

1128	CHAPTER 268, LAWS OF 1985	
	80 Special Government Services	
	83 Services to Veterans	
	7520 Division of Veterans' Services	
19-7520	Management and Field Services	\$95,000
		<hr/>
	Total Appropriation, Division of Veterans' Services	\$95,000
		<hr/>
	Special Purpose:	
	Governor's Veterans' Service Council	(\$65,000)
	Trenton Chapter of the American Red Cross	(30,000)
	Total Appropriation, Department of Human Services	\$9,576,000*
		<hr/> <hr/>

62 DEPARTMENT OF LABOR

	50 Economic Planning, Development and Security	
	52 Economic Regulation	
12-4550	Enforcement of Workplace Standards ...	\$202,000
		<hr/>
	Total Appropriation, Economic Regulation .	\$202,000
		<hr/>
	Special Purpose:	
	Asbestos Removal Act	(\$202,000)
	Total Appropriation, Department of Labor	\$202,000*
		<hr/> <hr/>

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

	10 Public Safety and Criminal Justice	
	12 Law Enforcement	
08-1200	Emergency Services	\$100,000
99-1200	Management and Administrative Services	1,297,000
		<hr/>
	Total Appropriation, Law Enforcement	\$1,397,000
		<hr/>

Special Purpose:

Statewide feasibility study on
 emergency management (\$100,000)
 Second State Police recruit class ... (1,297,000)

The unexpended balance as of June 30, 1985, not to exceed \$150,000, is appropriated for Marine Police Operations.

The unexpended balance, not to exceed \$25,000, as of June 30, 1985 for the Crime Prevention Resource Center, account number 1200-100-990270-50, is appropriated for the same purpose.

13 Special Law Enforcement Activities

17-1420	Election Law Enforcement	\$60,000
21-1400	Regulation of Alcoholic Beverages	200,000
Total Appropriation, Special Law Enforcement Activities		<u>\$260,000</u>

Personal Services:

Salaries and wages (\$60,000)

Special Purpose:

Compliance monitoring (200,000)

Total Appropriation, Department of Law and Public Safety \$1,657,000

70 DEPARTMENT OF THE PUBLIC ADVOCATE

80 Special Government Service

82 Protection of Citizens' Rights

08-8350	Advocacy for the Developmentally Disabled	\$175,000
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Total Appropriation, Protection of Citizens' Rights \$175,000

Special Purpose:

Guardianship unit	(\$175,000)	
Total Appropriation, Department of the Public Advocate		<u>\$175,000</u>

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

05-2530 Support of the Arts		\$814,000
06-2535 Museum Services		1,700,000
Total Appropriation, Cultural and Intellectual Development Services		<u>\$2,514,000</u>

Special Purpose:

Special Audiences	(\$64,000)	
Newark Community School of the Arts	(150,000)	
McCarter Theatre	(350,000)	
Trenton Visual Arts Center	(150,000)	
Red Bank Arts Center	(100,000)	
Collection improvement	(1,225,000)	
Minority collection improvement ..	(275,000)	
Flag restoration	(200,000)	
Total Appropriation, Department of State ..		<u>\$2,514,000</u>

82 DEPARTMENT OF THE TREASURY

70 Government Direction, Management and Control

74 General Government Services

10-2055 Physical Plant Operation and Maintenance		<u>\$774,000</u>
Total Appropriation, General Government Services		<u>\$774,000</u>

Special Purpose:

Expanded Capitol Complex	
cleaning	(\$324,000)
New Building Contingency Fund . . .	(100,000)
Purchase of janitorial services	(350,000)

70 Government Direction, Management and Control

76 Management and Administration

99-2000 Management and Administrative Services

The State Treasurer is authorized to make a no-interest loan not to exceed \$300,000 from the General Fund to the Casino Reinvestment Development Authority for the purpose of start-up costs. This loan shall be repaid to the General Fund at the close of the last business day of fiscal year 1986.

Total Appropriation, Department of the Treasury	\$774,000
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94 INTER-DEPARTMENTAL ACCOUNTS

70 Government Direction, Management and Control

74 General Government Services

9400 Property Rentals, Insurance and Other Services

01-9400 Property Rentals	\$7,000,000
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Total Appropriation, Property Rentals, Insurance and Other Services	\$7,000,000
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Maintenance and Fixed Charges

Rent:

Buildings and grounds	(\$7,000,000)
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9410 Employee Benefits

03-9410 Employee Benefits	\$10,722,000
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Total Appropriation, Employee Benefits	\$10,722,000
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Special Purpose:

Judicial Retirement System	(\$124,000)
State Police Retirement System . . .	(1,683,000)
Police and Firemen's Retirement System	(284,000)
Police and Firemen's Retirement System (P. L. 1979, c. 109)	(6,545,000)
Social security tax	(2,086,000)

9420 State Contingency Fund

The unexpended balance as of June 30, 1985 in the Governor's Emergency Fund is appropriated for the same purpose.

Total Appropriation, Inter-Departmental Accounts	\$17,722,000
Total Appropriation, Direct State Services	<u><u>\$52,621,000*</u></u>

STATE AID

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management

02-8020 Housing Services	\$150,000
04-8030 Local Government Services	162,000*
Total Appropriation, Community Development Management	<u>\$312,000*</u>

State Aid:

Prevention of homelessness	(\$150,000)
Grant to Hillside for school crossing guards	(62,000)
Grant to Middlesex county emergency response unit	(100,000)

50 Economic Planning, Development and Security

55 Related Social Services Programs—State Aid

05-8050	Human Resources	\$1,555,000*
08-8060	Programs for the Aging	420,000*
Total Appropriation, Related Social Services Programs		<u>\$1,975,000*</u>

State Aid:

State Legal Services	(\$400,000*)
Recreation for the handicapped	(50,000)
County offices on aging	(420,000*)
Hunterdon paramedic program	(350,000)
Grant to Sisters of Mercy food pantry	(25,000)
Grant to the Leaguers	(90,000*)
Newark Central Ward Boys' Club ..	(150,000)
Grant to Ironbound Educational and Cultural Center	(90,000*)
Grant to West Ward Boys' Club ..	(150,000)
Grant to Cape May county for Cold Springs Village	(250,000)

Total Appropriation, Department of Community Affairs	<u><u>\$2,287,000*</u></u>
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34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance—State Aid

03-5120	Miscellaneous Grants-in-Aid	\$2,310,000*
Total Appropriation, Direct Educational Services and Assistance		<u>\$2,310,000*</u>

State Aid:

Teacher recognition program	(\$2,200,000)
Environmental Education Center ..	(100,000*)
Focus on Literacy, Inc.	(10,000)

Of the amount hereinabove for Focus on Literacy, Inc., \$5,000 shall be made available to continue services in southern New Jersey and \$5,000 shall be made available to expand services to northern New Jersey.

Total Appropriation, Department of Education	\$2,310,000*
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42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management—State Aid

The unexpended balance as of June 30, 1985 in the Storm Water Management account is appropriated for the same purpose.

43 Environmental Quality—State Aid

The unexpended balance as of June 30, 1985 in the Lake Management account is appropriated for the same purpose.

45 Recreational Resource Management—State Aid

12-4875 Parks Management	\$150,000
21-4895 Navigational Aids	300,000

Total Appropriation, Recreational Resource Management	\$450,000
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State Aid:

Restoration of Shippen Manor	(\$ 150,000)
Deal Lake, silt retention and bank stabilization	(300,000)

Total Appropriation, Department of Environmental Protection	\$450,000*
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46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services—State Aid

02-4220	Local and Community Health Services ..	\$45,000
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	Total Appropriation, Health Services	\$45,000
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State Aid:

DES Hotline, Bergen county	(\$20,000)
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Beacon Hall, Archway School and Kingsway Learning Center	(25,000)
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Total Appropriation, Department of Health	\$45,000
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50 DEPARTMENT OF HIGHER EDUCATION

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services—State Aid

5400 Office of the Chancellor

06-5400	Aid to County Colleges	\$610,000
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Total Appropriation, Office of the Chancellor	\$610,000
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State Aid:

Employer contributions, alternate benefit program	(\$560,000)
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Brookdale Community College Learning Center, Asbury Park ..	(50,000)
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Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of C18A:64A-22.1 are appropriated.

Total Appropriation, Department of Higher Education	\$610,000
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24 DEPARTMENT OF HUMAN SERVICES

50 Economic Planning, Development and Security

53 Economic Assistance and Security—State Aid

7550 Division of Public Welfare

15-7550	Income Maintenance	\$1,500,000
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Total Appropriation, Division of Public Welfare		\$1,500,000
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State Aid:

Homeless aid	(\$1,500,000)
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55 Related Social Services Programs—State Aid

7570 Division of Youth and Family Services

16-7570	Initial Response/Case Management	\$1,000,000
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17-7570	Substitute Care	465,000
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Total Appropriation, Division of Youth and Family Services		\$1,465,000
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State Aid:

Juvenile family crisis intervention units	(\$1,000,000)
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Residential placements—Family services	(465,000)
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The funds appropriated for Juvenile family crisis intervention units shall be allocated to counties upon submission to and approval by the Department of Human Services of a program budget which adequately complies with the provisions of C2A:4A-20 et seq., C2A:4A-60 et seq., C2A:4A-70 et seq. and C2A:4A-76 et seq. These funds are intended to expand available services and counties shall maintain current levels of county expenditures for juvenile family crisis intervention units in order to be eligible for State funds.

Total Appropriation, Department of Human Services	\$2,965,000
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74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services—State Aid

06-2535	Museum Services	\$115,000*
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	Total Appropriation, Cultural and Intellectual Development Services	\$115,000*
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State Aid:

	Turtle Back Zoo	(\$115,000*)
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	Total Appropriation, Department of State ..	\$115,000*
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82 DEPARTMENT OF THE TREASURY

70 Government Direction, Management and Control

75 State Subsidies and Financial Aid—State Aid

36-2081	Municipal Purposes Tax Assistance Program	\$2,068,000
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	Total Appropriation, State Subsidies and Financial Aid	\$2,068,000*
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State Aid:

	Prior year payments to municipi- palities, pursuant to the Muni- cipal Purposes Tax Assistance Program	(\$2,068,000)
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The State Treasurer shall disburse the amount appropriated for prior year payments to municipalities, pursuant to the Municipal Purposes Tax Assistance Program, so as to provide each municipality which received less in the tax year 1981 than the amount now determined to have been due in that year from the Municipal Purposes Tax Assistance Fund established under the provisions of C54:1-52 with the amount of the underpayment so determined.

Any municipality determined to have received an overpayment from the Municipal Purposes Tax Assistance Fund in the tax year 1981 may retain the amount of the overpayment.

Total Appropriation, Department of the Treasury	\$2,068,000*
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Total Appropriation, State Aid	\$10,850,000*
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CAPITAL CONSTRUCTION

26 DEPARTMENT OF CORRECTIONS

10 Public Safety and Criminal Justice

19 Central Planning, Direction and Management

16 Detention and Rehabilitation

Capital Projects:

Training School for Boys, Jamesburg, Gymnasium facility .. (\$200,000)	
State correctional facilities, Additional bedspaces	
Rahway-Yardville-Bordentown (32,500,000*)	
Camden State Prison	(27,000,000)
Total Appropriation, Department of Corrections	\$59,700,000*
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50 DEPARTMENT OF HIGHER EDUCATION

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

5600 Rutgers, The State University

Capital Projects:

Replace Victor Building	(\$2,000,000*)
Athletic facilities	(3,700,000)
Total Appropriation, Department of Higher Education	\$5,700,000*
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66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

11 Vehicular Safety

Capital Projects:

Marine Police station, Cumberland county	(\$300,000)	
Total Appropriation, Department of Law and Public Safety		\$300,000
Total Appropriation, Capital Construction ..		<u>\$65,700,000*</u>
Total Appropriation, General Fund		<u><u>\$129,171,000*</u></u>

3. This act shall take effect immediately and be retroactive to July 1, 1985.

Approved August 2, 1985.

*Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 268 (Senate Bill No. 3002)

Pursuant to Article V, Section 1, paragraph 15 of the Constitution I am today returning Senate Bill No. 3002 with my signature, along with certain constitutionally permitted modifications set forth in the statement appended.

This bill is a supplement to the General Appropriation Act for Fiscal Year 1986, approved on June 28 as P. L. 1985, c. 209. In approving the bill, I have exercised my line-item veto power to reduce the total amount appropriated from \$185,337,000 to \$135,171,000—a reduction of \$50,166,000.

As so modified, the bill nevertheless provides substantial support for a great number of programs. The bill includes:

—\$61,276,000 for the Department of Corrections, most of which is to finance increased prison capacity from pay-as-you-go capital rather than through the issuance of debt,

- \$20,238,000 for the Department of Higher Education, including \$6 million for the University of Medicine and Dentistry and \$9.250 million for Rutgers University and Agricultural Experiment Station,
- \$17,722,000 for mandated expenses for property rentals, pension benefits, and social security taxes,
- \$104,000 for the Legislature,
- \$840,000 for the Department of Agriculture,
- \$225,000 for the Department of Civil Service,
- \$590,000 for the Department of Commerce,
- \$3,929,000 for the Department of Community Affairs,
- \$231,000 for the Department of Defense,
- \$2,310,000 for the Department of Education,
- \$390,000 for Public Broadcasting,
- \$1,768,000 for the Department of Environmental Protection,
- \$5,202,000 for the Department of Health,
- \$12,541,000 for the Department of Human Services,
- \$202,000 for the Department of Labor,
- \$1,957,000 for the Department of Law and Public Safety,
- \$175,000 for the Department of the Public Advocate,
- \$2,629,000 for the Department of State,
- \$2,842,000 for the Department of the Treasury.

We are able to meet these additional expenditures out of revenues on hand. Many of them are or may be one-time appropriations, and it should be carefully noted by the sponsors and organizations involved that most of these appropriations should not necessarily be anticipated in their budgets for next year.

The reductions made in these appropriations are necessary to curtail spending to a level which will allow maintenance of a prudent surplus of approximately 2% of total projected revenues. When I signed the General Appropriations Act, I noted that the stated surplus of \$618 million included \$140 million which I have earmarked for return to our citizens as tax relief. I also noted that spending bills (including Senate Bill No. 3002) for more than \$360 million were either awaiting my approval or shortly expected to reach my desk.

Since that time, I have approved the "Mount Laurel" legislation which provides \$25 million for affordable housing and neighborhood preservation. Other bills now on my desk awaiting approval include the following appropriations:

- \$20 million to initiate a surplus revenue (or "rainy day") fund,
- \$13 million to eliminate long-term private-pay agreements for nursing home care,
- \$8 million for Safe and Clean assistance to municipal and volunteer fire departments,
- \$5 million to establish the Pinelands Development Credit Bank,
- \$4.5 million for Children's Hospital of New Jersey.

An additional \$38 million will be required to provide for the program to establish an \$18,500 minimum salary for teachers. \$60 million more should be reserved for other pending legislation I expect to approve, providing for environmental programs, restoration of cultural facilities and the recommendations of the State employee pay equity task force. The total of all of these items, including the bills on my desk, is nearly \$175 million.

A buoyant economy and sound management produced a large budget surplus for the fiscal year which ended last June 30. We cannot assume that economic conditions will be equally favorable in Fiscal Year 1986. On the basis of currently available information, it appears that our final FY 1985 revenue collections will not exceed, and may well fall slightly below, the amount predicted at the end of June. Likewise, there is no reason to expect greater revenue for FY 1986 than the amount anticipated at that time, based on projections for continued but slower growth in the economy.

With the \$175 million listed above and the \$135 million approved in this supplemental appropriation bill added to the \$8.681 billion appropriated in the budget bill, total spending for FY 1986 will approach \$9 billion. A minimum surplus of 2% of revenues is absolutely necessary to meet potential emergency needs and provide a cushion if actual revenue collections do not match our estimated revenue projections. In order to preserve this surplus, I have found it necessary to make reductions of \$50 million in this bill over and above the \$138 million of spending cuts made by line-item veto in the budget bill. On the basis of our current

revenue estimates, the resulting surplus will be \$188 million (including \$20 million which may be appropriated to a "rainy day" fund), which will only barely exceed the minimum required.

Many of the items reduced or deleted are worthwhile, even desirable. We cannot, however, afford them. The great budget surplus of the two last fiscal years has been spent, and further spending measures must now be deferred until we know that revenues to provide for them are actually in hand.

I am therefore appending to Senate Bill No. 3002 at the time of signing it this statement of the items or parts thereof to which I object, so that each item or part thereof so objected to shall not take effect.

"DIRECT STATE SERVICES"

"Department of Agriculture"

"06-3360 \$935,000"

This item is reduced to \$790,000.

"Total Appropriation, Economic Planning and
Development 935,000"

This item is reduced to \$790,000.

"Sire Stakes television programming
supplement (95,000)"

This item is deleted in its entirety.

"Agricultural fairs and shows (90,000)"

This item is reduced to \$40,000.

"Total Appropriation, Department of
Agriculture 985,000"

This item is reduced to \$840,000.

"Department of Commerce and Economic Development"

"22-2860 Travel and Tourism 150,000"

This item is reduced to \$110,000.

"Total Appropriation, Economic Planning and
Development 630,000"

This item is reduced to \$590,000.

“Atlantic City air service study (50,000)”
This item is reduced to \$10,000.

“Total Appropriation, Department of Commerce and Economic Development 630,000”
This item is reduced to \$590,000.

“Department of Community Affairs”

“01-8010 Housing Code Enforcement 550,000”
This item is deleted in its entirety.

“Total Appropriation, Community Development Management 1,088,000”
This item is reduced to \$538,000.

“Housing code enforcement (550,000)”
This item is deleted in its entirety.

“08-8060 Programs for the Aging 80,000”
This item is reduced to \$60,000.

“15-8051 Women’s Programs 1,000,000”
This item is reduced to \$750,000.

“Total Appropriation, Related Social Services Programs 1,347,000”
This item is reduced to \$1,077,000.

“Archway senior center (80,000)”
This item is reduced to \$60,000.

“Grants to displaced homemaker training centers (1,000,000)”
This item is reduced to \$750,000.

“Total Appropriation, Department of Community Affairs 2,462,000”
This item is reduced to \$1,642,000.

“Of the amount hereinabove for grants to displaced homemaker training centers, a sum not to exceed \$100,000 shall be used for services to Hispanic displaced homemakers.”

This language is deleted in its entirety.

“Department of Energy”

“10-4050 Public Broadcasting Services	400,000”
This item is reduced to \$390,000.	
“Total Appropriation, Cultural and Intellectual Development Services	400,000”
This item is reduced to \$390,000.	
“WBGO-FM Newark	(40,000)”
This item is reduced to \$30,000.	
“Total Appropriation, Department of Energy	400,000”
This item is reduced to \$390,000.	

“Department of Health”

“02-4220 Local and Community Health Services	6,857,000”
This item is reduced to \$4,857,000.	
“Total Appropriation, Health Services	7,157,000”
This item is reduced to \$5,157,000.	
“Fluoridation of public water supplies public information and education program	(50,000)”
This item is deleted in its entirety.	
“Anti-smoking program	(250,000)”
This item is deleted in its entirety.	
“County rape crisis centers	(250,000)”
This item is reduced to \$150,000.	
“Health Service of Hudson County	(100,000)”
This item is deleted in its entirety.	
“St. Mary’s Hospital	(100,000)”
This item is deleted in its entirety.	
“Chair of Gerontology in Belleville	(100,000)”
This item is deleted in its entirety.	
“Community based drug programs—State share	(1,000,000)”
This item is reduced to \$700,000.	

“State Commission on Cancer Research (2,000,000)”
This item is reduced to \$1,000,000.

“Total Appropriation, Department of Health 7,157,000”
This item is reduced to \$5,157,000.

“Department of Higher Education”

“02-5400 Support to Independent Institutions 2,430,000”
This item is reduced to \$1,900,000.

“04-5400 Student Financial Support Services 1,030,000”
This item is reduced to \$387,000.

“99-5400 Management and Administrative
Services 3,080,000”
This item is reduced to \$1,080,000.

“Total Appropriation, Office of the Chancellor 6,540,000”
This item is reduced to \$3,467,000.

“State College Autonomy Administration
computing augmentation (2,000,000)”
This item is reduced to \$1,000,000.

“Northern CIM Center (1,000,000)”
This item is deleted in its entirety.

“Aid to independent colleges and universities (2,430,000)”
This item is reduced to \$1,900,000.

“Vietnam veterans’ tuition aid and tuition
credit programs (1,000,000)”
This item is reduced to \$357,000.

“19-5500 Physical Plant Support Services . . . 360,000”
This item is reduced to \$100,000.

“Total Appropriation, Glassboro State College 426,000”
This item is reduced to \$166,000.

“Additions, Improvements and Equipment . . (360,000)”
This item is reduced to \$100,000.

“12-5600 Sponsored Programs and Research . . 1,000,000”
This item is reduced to \$500,000.

“15-5600 Academic Support	2,000,000”
This item is reduced to \$1,000,000.	
“Total, All Operations	3,700,000”
This item is reduced to \$2,200,000.	
“New Jersey Agricultural Museum	(1,000,000)”
This item is reduced to \$500,000.	
“Excellence Initiative	(2,000,000)”
This item is reduced to \$1,000,000.	
“12-5620 Sponsored Programs and Research ..	1,800,000”
This item is reduced to \$950,000.	
“13-5620 Extension and Public Service	800,000”
This item is reduced to \$400,000.	
“Total, All Operations	2,600,000”
This item is reduced to \$1,350,000.	
“Salaries and wages	(1,500,000)”
This item is reduced to \$730,000.	
“Materials and Supplies	(50,000)”
This item is reduced to \$26,000.	
“Services Other Than Personal	(950,000)”
This item is reduced to \$494,000.	
“Total Appropriation, Rutgers, The State University	6,300,000”
This item is reduced to \$3,600,000.	
“11-5640 Instruction	650,000”
This item is reduced to \$450,000.	
“17-5640 Institutional Support	200,000”
This item is reduced to \$150,000.	
“Total, All Operations	850,000”
This item is reduced to \$600,000.	
“Updating and improving instructional equipment	(650,000)”
This item is reduced to \$450,000.	

“Computer networking	(200,000)”
This item is reduced to \$150,000.	
“Total Appropriation, Department of Higher Education	14,361,000”
This item is reduced to \$7,928,000.	
<i>“Department of Human Services”</i>	
“08-7700 Community Services	150,000”
This item is deleted in its entirety.	
“Total Appropriation, Division of Mental Health and Hospitals	150,000”
This item is deleted in its entirety.	
“Establish Statewide self-help clearinghouse	(150,000)”
This item is deleted in its entirety.	
“98-7620 Physical Plant and Support Services	250,000”
This item is reduced to \$202,000.	
“Total Appropriation, Vineland Developmental Center	250,000”
This item is reduced to \$202,000.	
“Furnishings ICF cottages	(48,000)”
This item is deleted in its entirety.	
“18-7570 General Social Services	2,963,000”
This item is reduced to \$2,638,000.	
“Total Appropriation, Division of Youth and Family Services	3,353,000”
This item is reduced to \$3,028,000.	
“Child assault prevention program	(600,000)”
This item is reduced to \$375,000.	
“Community services-family courts	(535,000)”
This item is reduced to \$435,000.	
“Total Appropriation, Department of Human Services	10,099,000”
This item is reduced to \$9,576,000.	

New Jersey State Library

"Department of Labor"

"10-4555 Employment Development Services	100,000"
This item is deleted in its entirety.	
"Total Appropriation, Manpower and Employment Services	100,000"
This item is deleted in its entirety.	
"Jobs Transportation Program	(100,000)"
This item is deleted in its entirety.	
"Total Appropriation, Department of Labor	302,000"
This item is reduced to \$202,000.	

"The Judiciary"

"11-9760 Field Operations	22,500,000"
This item is deleted in its entirety.	
"Total Appropriation, Judicial Services	22,500,000"
This item is deleted in its entirety.	
"State assumption of county court costs	(22,500,000)"
This item is deleted in its entirety.	
"The amount hereinabove for Special Purpose, State assumption of county court costs shall be expended for costs incurred after December 31, 1985 for the salaries and fringe benefits to those county judicial employees who are trans- ferred to State service as of January 1, 1986, and for those county juror fees and county law library expenses and related costs which come under State jurisdiction as of January 1, 1986." The quoted language is deleted in its entirety.	
"Total Appropriation, Direct State Services	85,192,000"
This item is reduced to \$52,621,000.	

*"STATE AID"**"Department of Community Affairs"*

"04-8030 Local Government Services	\$6,257,000"
This item is reduced to \$162,000.	

“Total Appropriation, Community Development Management	6,407,000”
This item is reduced to \$312,000.	
“County welfare equalization	(4,795,000)”
This item is deleted in its entirety.	
“Special aid to Belleville for a police station ..	(300,000)”
This item is deleted in its entirety.	
“Aid to rapid growth municipalities	(1,000,000)”
This item is deleted in its entirety.	
“The sum appropriated above for Aid to rapid growth municipalities may be spent only upon enactment of Assembly Bill No. 3436 of 1985 or similar legislation.”	
This language is deleted in its entirety.	
“05-8050 Human Resources	1,865,000”
This item is reduced to \$1,555,000.	
“08-8060 Programs for the Aging	840,000”
This item is reduced to \$420,000.	
“Total Appropriation, Related Social Services Programs	2,705,000”
This item is reduced to \$1,975,000.	
“State Legal Services	(650,000)”
This item is reduced to \$400,000.	
“County offices on aging	(840,000)”
This item is reduced to \$420,000.	
“Grant to the Leaguers	(120,000)”
This item is reduced to \$90,000.	
“Grant to Ironbound Educational and Cultural Center	(120,000)”
This item is reduced to \$90,000.	
“Total Appropriation, Department of Community Affairs	9,112,000”
This item is reduced to \$2,287,000.	

“Notwithstanding the provisions of C. 40:23-6.38 et seq., each county shall receive \$60,000 of the amount hereinabove for County offices on aging as reimbursement for administrative costs.”

This item is deleted in its entirety.

“Department of Education”

“03-5120 Miscellaneous Grants-in-Aid 2,510,000”

This item is reduced to \$2,310,000.

“Total Appropriation, Direct Educational Services and Assistance 2,510,000”

This item is reduced to \$2,310,000.

“Environmental Education Center (300,000)”

This item is reduced to \$100,000.

“Total Appropriation, Department of Education 2,510,000”

This item is reduced to \$2,310,000.

“Department of Environmental Protection”

“15-4890 Marine Lands Management 3,000,000”

This item is deleted in its entirety.

“Total Appropriation, Natural Resource Management 3,000,000”

This item is deleted in its entirety.

“Shore Protection Trust Fund (3,000,000)”

This item is deleted in its entirety.

“Total Appropriation, Department of Environmental Protection 3,450,000”

This item is reduced to \$450,000.

“Department of Health”

“Of the amount hereinabove for Special grants for the expansion of infant mortality reduction programs, the services provided, including

outreach services, shall be provided by appropriate health care professionals, including but not limited to physicians, certified nurse midwives, and registered professional nurses and through existing health care facilities including but not limited to hospitals, schools, licensed ambulatory care centers, certified and licensed home health agencies and local health departments.”

This item is deleted in its entirety.

“Department of State”

“06-2535 Museum Services	150,000”
This item is reduced to \$115,000.	
“Total Appropriation, Cultural and Intellectual Development Services	150,000”
This item is reduced to \$115,000.	
“Turtle Back Zoo	(150,000)”
This item is reduced to \$115,000.	
“Total Appropriation, Department of State ..	150,000”
This item is reduced to \$115,000.	

“Department of Treasury”

“29-2088 Locally Provided Services	400,000”
This item is deleted in its entirety.	
“Total Appropriation, State Subsidies and Financial Aid	2,468,000”
This item is reduced to \$2,068,000.	
“Payments to municipalities for services to State-owned property	(400,000)”
This item is deleted in its entirety.	
“Of the amount appropriated above for Payments to municipalities for services to State-owned property, a sum of \$400,000 shall be paid to the Township of Ewing, in addition to any	

other amounts appropriated therein for the Township of Ewing, and the \$400,000 shall be paid and included in the amounts otherwise payable on November 1, 1985.”

The quoted language is deleted in its entirety.

“Total Appropriation, Department of the Treasury 2,468,000”
This item is reduced to \$2,068,000.

“Total Appropriation, State Aid 21,310,000”
This item is reduced to \$10,850,000.

“CAPITAL CONSTRUCTION”

“*Department of Commerce and Economic Development*”

“South Jersey Port Corporation Improvement projects (\$500,000)”
This item is deleted in its entirety.

“Total Appropriation, Department of Commerce and Economic Development 500,000”
This item is deleted in its entirety.

“*Department of Corrections*”

“Rahway-Yardville-Bordentown (33,000,000)”
This item is reduced to \$32,500,000.

“Total Appropriation, Department of Corrections 60,200,000”
This item is reduced to \$59,700,000.

“*Department of Higher Education*”

“Replace Victor Building (3,000,000)”
This item is reduced to \$2,000,000.

“Renovate Winants Hall (2,000,000)”
This item is deleted in its entirety.

“Cardiac diagnostic laboratory (1,000,000)”
This item is deleted in its entirety.

“Extracorporeal shockwave lithotriper (2,000,000)”
This item is deleted in its entirety.

“Total Appropriation, Department of Higher
Education 11,700,000”
This item is reduced to \$5,700,000.

“Department of Transportation”

“Transportation Trust Fund Account (135,000)”
This item is deleted in its entirety.

“Total Appropriation, Department of
Transportation 135,000”
This item is deleted in its entirety.

“There are appropriated from federal matching
funds and the revenues and other funds of the
New Jersey Transportation Trust Fund Au-
thority, \$135,000 for the following:

Vehicular bridge across Overpeck Canal in the
vicinity of Cedar Lane and Sheffield Avenue,
Englewood, with access road to Route 4, design 110,000

Walkway lane on High Street Bridge,
Cranford, construction 25,000”

The quoted language as well as the line-item
amounts are deleted in their entirety.

“Total Appropriation, Capital Construction 72,835,000”
This item is reduced to \$65,700,000.

“Total Appropriation, General Fund 179,337,000”
This item is reduced to \$129,171,000.

SUMMARY

I have reduced the funds for the following programs in the
amounts indicated for the reasons cited.

“Direct State Services”

Department of Agriculture

— \$95,000 To supplement Sire Stakes television programming.
This item is deleted in its entirety. This activity

should be funded from the Sire Stakes dedicated fund, which generates substantial revenue and promotes Sire Stakes racing.

- 50,000 To provide additional support for agricultural fairs and shows. The \$40,000 remaining, together with the \$60,000 appropriated for this purpose in Senate Bill No. 3000, will provide for substantial expansion of this program for the second consecutive year.

Department of Commerce and Economic Development

- 40,000 This would provide funding to study and develop a plan for improving air service at Atlantic City Airport. The \$10,000 remaining is adequate to satisfy the local matching requirement for a comprehensive study of air service to the Atlantic City area to be conducted by the Federal Aviation Administration.

Department of Community Affairs

- 550,000 This would provide funds to support additional positions for housing inspections. This appropriation is deleted in its entirety. Additional funds for multiple dwelling inspections should be provided instead through an increase in fees charged for the inspections.
- 20,000 This would provide funds for Archway School, the intended grantee of this appropriation. The remaining \$60,000 will provide an increase of \$10,000 over fiscal year 1985 funding through the Department of Health for the Archway School. An additional \$5,000 is provided through the Health Department in this bill.
- 250,000 This would provide funds for grants to displaced homemaker training centers. This item is reduced to \$750,000. The department received \$280,000 to support these programs in Senate Bill No. 3000, and additional support is available from the Department of Education's Divisions of Adult Education and Vocational Education.

Energy—Public Broadcasting Authority

- 10,000 This would provide a grant to WBGO-FM in Newark. The remaining \$30,000 will provide continuation funding of the fiscal year 1985 grant.

Department of Health

- 50,000 This would fund a public information and education effort targeted at those areas in New Jersey which demonstrate the greatest need for fluoridation of public drinking water. This item is deleted in its entirety. Additional fluoridation informational activity can be adequately funded at the local level from the \$1.2 million increase in local health aid provided in Senate Bill No. 3000.
- 250,000 This would provide funding to establish an anti-smoking program. This item is deleted in its entirety. Sufficient funding exists in both the public and private sectors to address this issue.
- 100,000 This would provide matching grants to counties for Rape Crisis Centers. This item is reduced to \$150,000. There currently is more than \$200,000 in Block Grant funds available for this program. The significant increase in State aid to local and regional health agencies (\$1,200,000) in fiscal year 1986 also allows additional support for this program.
- 200,000 Two of the three direct grants to local prenatal programs are deleted in light of the provision of \$1.6 million of additional funding for prenatal and infant mortality programs in Senate Bill No. 3000. Jersey City is among the target areas for these programs.
- 100,000 Funding for a “Chair of Gerontology in Belleville” is deleted. Programs of this kind should be planned in consultation with the Department of Health to assure coordination of State-supported research activity before funding is provided.
- 300,000 The additional appropriation for community-based drug programs is reduced to \$700,000 to provide a

10% increase in State contract assistance to community-based drug programs as compared to fiscal year 1985.

- 1,000,000 This would increase the funding for the State Commission on Cancer Research. A 50% reduction is made in this item. Together with the \$1 million provided to the State Commission on Cancer Research from cigarette tax receipts, these funds will enable the Commission to expand its sponsored research substantially.

Department of Higher Education

- 1,000,000 Funding for the establishment of a Northern Computer Integrated Manufacturing (CIM) Center is deleted. The total estimated cost to establish the Center is \$5 million. Plans are not yet complete for the Northern Center and the State's first CIM Center in Camden has not yet become operational. Funding should not be provided until the Department's plan for the Center has been reviewed and the Camden CIM Center has been evaluated.
- 1,000,000 Funding to augment data processing capacity at the State Colleges to prepare for college autonomy is reduced by 50%. Supplemental funds can be provided upon final approval of autonomy legislation and completion of planning for necessary expenditures.
- 530,000 Additional funding for Aid to Independent Colleges and Universities is reduced to \$1.9 million. The total available for this program will be \$16,095,000, an increase of 25.7% over fiscal year 1985.
- 643,000 Provides funding for Vietnam Veterans' Tuition Aid and Tuition Credit programs. Reduction is due to recently enacted legislation (P. L. 1985, c. 114) which included an appropriation of \$1 million for the Vietnam Veterans' Tuition Aid program. Reduction leaves \$357,000 for the Veterans' Tuition Credit program. Taken together, these appropriations fully fund all Veterans' Tuition Assistance programs.

- 500,000 To provide funding for the New Jersey Agricultural Museum at Cook College. This appropriation is reduced by 50%. The remaining funds will permit significant State support for establishment of the Museum. Private sector resources should also be explored.
- 1,000,000 Additional funding for Rutgers “Excellence Initiative” is reduced to \$1 million. This will restore \$340,000 cut by the Legislature from the budget recommendation in Senate Bill No. 3000 and provide additional support for the “Excellence Initiative.” In total, \$8.7 million will be available for the initial phase of a multi-year plan. This program can be further expanded, as objectives are developed, in the future.
- 1,250,000 Additional funding for the operation of the Agricultural Experiment Station is reduced to \$1.25 million, which allows major program expansion at the institution.
- 260,000 Additional funding for maintenance and repair services at Glassboro State College is reduced to \$100,000. Senate Bill No. 3000 provided an increase of \$361,000 or 55% over the fiscal year 1985 appropriation for this purpose.
- 250,000 Additional funding for NJIT is reduced to \$600,000. Added to the increase provided in Senate Bill No. 3000, this results in a total increase for NJIT of \$3,916,000 or 17.4% over fiscal year 1985 funding.

Department of Human Services

- 150,000 The appropriation to establish a Statewide Self-Help Clearinghouse in the Division of Mental Health is deleted. Assembly Bill No. 3040 provides for the establishment of a Statewide Self-Help Clearinghouse and includes an appropriation for this purpose. Funding for this initiative is more appropriately addressed through the legislation establishing this program.

- 100,000 This bill appropriates \$535,000 for Community Services-Family Courts. An additional \$1,465,000 to implement the Family Courts legislation is provided in the State aid portion of this bill for residential placements and crisis intervention. The community services component of the Family Courts program can be adequately funded from increases provided in Senate Bill No. 3000 and the \$435,000 approved in this bill.
- 48,000 Additional funding for furnishing Intermediate Care Facility client cottages at the Vineland Developmental Center is deleted. Sufficient funds are available to maintain these facilities through combined State and federal resources.
- 225,000 This provides additional funding to offset the costs of materials utilized in connection with Child Assault Prevention workshops. Senate Bill No. 3000 provides \$300,000 to train volunteers Statewide to conduct prevention workshops. The remaining \$375,000 is provided, as seed money, to offset the cost of workshop materials in an effort to demonstrate the benefits of this program to local entities.

Department of Labor

- 100,000 The appropriation to reestablish the Jobs Transportation program is deleted. The effectiveness of this program as compared to available public transportation services has not been established.

The Judiciary

- 22,500,000 The amount deleted would fund the initial phase of State assumption of county judicial costs. The annualized cost of this program after full assumption will exceed \$150 million. A program with such major cost implications should not be dealt with on an ad hoc basis, but rather should await the recommendations of the State and Local Revenue and Expenditure Policy Commission, which can evaluate this matter within the context of a careful and comprehensive study of State and local expenditures and tax systems.

"STATE AID"

Department of Community Affairs

- \$4,795,000 The appropriation to increase county welfare equalization aid is deleted. Each year since the initiation of this program, except fiscal year 1983, the budgeted amount for the program has remained level at \$15,000,000. Counties have not anticipated the higher amount in their current budgets.
- 300,000 Special aid to Belleville for construction of a police station is deleted. This is a local responsibility for this or any other municipality.
- 1,000,000 Funding for aid to "rapid-growth" municipalities under proposed legislation to modify the Urban Aid formula is deleted. The modification is not advisable because it benefits particular municipalities on the basis of arbitrarily chosen criteria and ignores general considerations affecting a greater number of communities.
- 250,000 An increase of \$400,000 is provided in State aid for Legal Services. An additional \$850,000 was provided for this purpose in Senate Bill No. 3000. The total of \$1,250,000 reflects an increase of almost 50% over the fiscal year 1985 State appropriation.
- 30,000 This would provide funds to support the Leaguers organization. This item is reduced to \$90,000, which provides for a grant of the same amount as made to this organization in fiscal year 1985. The group may also apply for assistance under the Department's Cultural Development for Ethnic Groups program.
- 30,000 This would provide funds to support the Ironbound Educational and Cultural Center. This item is reduced to \$90,000, which provides for a grant of the same amount as made to this organization in fiscal year 1985. The group may also apply for assistance under the Department's Cultural Development for Ethnic Groups program.

- 420,000 This would provide funds to support an increase in State aid to the County Offices on Aging for the purpose of defraying the administrative costs associated with these offices. This item is reduced by 50%. The remaining \$420,000 doubles fiscal year 1985 funding for this purpose.

Department of Education

- 200,000 The appropriation to establish an Environmental Education Center in the Township of Bloomfield is reduced to \$100,000. Further aid may be applied for under established programs.

Department of Environmental Protection

- 3,000,000 To establish a Shore Protection Trust Fund. This item is deleted in its entirety. Funds for shore protection should be provided instead through carefully considered legislation establishing a stable source of funding.

Department of State

- 35,000 To provide a grant to Turtle Back Zoo. This item is reduced to \$115,000, which will provide an increase of \$40,000 over the fiscal year 1985 grant. It will allow construction of a 250 seat amphitheater.

Department of the Treasury

- 400,000 The appropriation for an additional payment to Ewing Township for services to State-owned property is deleted. This municipality already receives \$163,000 more than its basic formula distribution for this purpose.

“CAPITAL CONSTRUCTION”

- \$500,000 Department of Commerce and Economic Development
The appropriation to support selected building improvements at the South Jersey Port Corporation is deleted. Since the Port Corporation has recently modified its bond covenants to enable it to use excess revenues for building improvement projects, State funds are not required.

Department of Corrections

- 500,000 The appropriation of \$33,000,000 for additional bedspaces at Rahway, Yardville and Bordentown has been reduced to \$32,500,000 in light of current construction cost estimates.

Department of Higher Education

- 3,000,000 The appropriations for cardiac diagnostic laboratory facilities and an extracorporeal shockwave lithotriper at the University of Medicine and Dentistry are deleted. These projects were not requested by the Board of Higher Education. They should be reviewed with other departmental priorities by both the Board of Higher Education and the Capital Budgeting and Planning Commission before appropriations are provided.
- 2,000,000 The appropriation for renovations at Winants Hall, Rutgers University is deleted. The \$12 million capital appropriation to the Department of Higher Education includes an allocation of \$1,669,000 for Winants Hall renovation. This amount is an adequate State contribution for fiscal year 1986.
- 1,000,000 The appropriation to replace the Victor Building at Rutgers University is reduced to \$2 million to allow this project to commence. Additional funds required can be requested through the capital planning process.
- 135,000 The appropriation of \$135,000 to the Transportation Trust Fund account and the corresponding appropriation from Transportation Trust Fund Authority moneys for construction of two local road improvements are deleted. It is unnecessary to provide for these projects in this fashion. Adequate funding is available within the appropriation made in Senate Bill No. 3000 and the projects will be approved as additions to the Transportation Construction Program.

“LANGUAGE”

“DIRECT STATE SERVICES”

Department of Community Affairs

Language limiting the amount of grant funds available to Hispanic displaced homemakers is deleted.

The Judiciary

Language accompanying the deleted appropriation of \$22.5 million for State assumption of county court costs is also deleted.

“STATE AID”

Department of Community Affairs

Language accompanying the deleted appropriation of \$1,000,000 for rapid-growth municipalities is also deleted.

Language allocating the amount appropriated for County offices on aging equally among the counties is deleted to allow allocation based on differing county needs.

Department of Health

The deleted language would require that the special grants for expansion of infant mortality reduction programs and services provided by those programs be provided by health care professionals through existing health care facilities. This language unreasonably limits the Health Commissioner's discretion in awarding grants for this program to newly established organizations.

Department of the Treasury

Language accompanying the deleted appropriation of \$400,000 for an additional payment for services to State-owned property to Ewing Township is also deleted.

Respectfully,

THOMAS H. KEAN,

Governor.

CHAPTER 269

AN ACT concerning parimutuel wagering, amending and supplementing P. L. 1940, c. 17, providing for the submission of this amendatory and supplementary act to the legal voters of the State for their approval or rejection before it shall become operative within this State, and repealing P. L. 1983, c. 340.

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

C. 5:5-110 Short title.

1. (New section) Sections 1 through 12 of this act shall be known and may be cited as the "Simulcasting Racing Act."

C. 5:5-111 Definitions.

2. (New section) 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.

C. 5:5-112 Intertrack wagering license.

3. (New section) Upon the filing of a joint application by a receiving and an in-State sending track and after the holding of a public hearing, the New Jersey Racing Commission may issue an intertrack wagering license to a receiving track specifying the periods of time during a calendar year and the hours during the day or night when intertrack wagering is permitted and prescribing any other conditions or terms the commission deems appropriate, provided that:

a. The receiving track demonstrates to the satisfaction of the commission that it has conducted a regularly scheduled horse race meeting pursuant to an annual permit issued by the commission and has complied with the terms of the permit, or the receiving track agrees to conduct such a horse race meeting and to comply with the terms of the permit for the meeting unless otherwise directed or permitted by the commission.

b. The in-State sending track produces an agreement in writing, or testimony at the public hearing, demonstrating that the horsemen's organization engaged in competing for the purses at the in-State sending track approves of intertrack wagering during the period when an intertrack wagering license shall be in effect.

c. If intertrack wagering will occur at the receiving track at the same time the receiving track is conducting a horse race meeting, the receiving track produces an agreement in writing, or testimony at the public hearing, demonstrating that the horsemen's organization at the receiving track approves of intertrack wagering during the period of the horse race meeting.

C. 5:5-113 Joint application requirements.

4. (New section) A joint application for an intertrack wagering license shall include a written agreement between the receiving and in-State sending tracks providing a detailed plan of operation for the simultaneous picture transmission of races from the in-State sending track to the receiving track, the transmission to the in-State sending track of wagers placed at the receiving track, and the distribution of the parimutuel pool to the winning ticketholders at the receiving track.

C. 5:5-114 Filing of objection.

5. (New section) Any holder of a permit to conduct a horse race meeting within the State may file an objection to a joint application prior to the public hearing required to be held on the application. Any permit holder filing such an objection shall have the burden to demonstrate at the public hearing good cause as to why the issuance of an intertrack wagering license would be adverse to the public interest, as defined in section 24 of P. L. 1940, c. 17 (C. 5:5-44).

C. 5:5-115 No substitution of in-State races.

6. (New section) Under no circumstances shall a receiving track be permitted to substitute a race transmitted to it from an in-State sending track for a live race or races scheduled during a horse race meeting at the receiving track. Subject to the approval of the New Jersey Racing Commission and agreement in writing from the horsemen's organization at the receiving track, and in accordance with applicable federal law, a receiving track may substitute a race of national interest transmitted to it from an out-of-State sending track for a live race or races scheduled during a horse race meeting at the receiving track, pursuant to section 10 of this act.

C. 5:5-116 Distribution.

7. (New section) Except as otherwise provided in sections 8 and 10 of this act, 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.

C. 5:5-117 Payments to receiving tracks.

8. (New section) 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.

C. 5:5-118 Intertrack wagering declared lawful.

9. (New section) Notwithstanding any other law to the contrary, intertrack wagering shall be lawful; provided that an intertrack wagering license has been issued to the receiving track.

C. 5:5-119 Simulcasting of out-of-State races.

10. (New section) 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. 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.

C. 5:5-120 Contracts with out-of-State tracks.

11. (New section) 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.

C. 5:5-121 Rules, regulations.

12. (New section) The commission shall promulgate and adopt such rules and regulations as are necessary to effectuate the purposes of this act.

13. Section 42 of P. L. 1940, c. 17 (C. 5:5-62) is amended to read as follows:

C. 5:5-62 Places for wagering.

42. A permit holder may provide a place or places in the race meeting grounds or enclosure at which such holder of a permit may conduct and supervise the parimutuel system of wagering by patrons on the results of the horse races conducted by such permit holder at a horse race meeting or on the results of simulcast horse races as provided by the "Simulcasting Racing Act," sections 1 through 12 of P. L. 1985, c. 269 (C. 5:5-110 et seq.), and such parimutuel system of wagering upon the results of such horse races shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto, be held or construed to be unlawful, other statutes of the State of New Jersey to the

contrary notwithstanding. Such place or places so provided in conformity with this section shall be equipped with such automatic ticket issuing and vending machines and with adding machine equipment capable of accurate and speedy determination of the amount of money in each pool and on each horse and the amount of award or dividend to winning patrons and displaying the same to the patrons. Such machine shall further be equipped with automatic or hand operated machinery suitable for displaying on the mutuel board across the track, in plain view of the public, the total amount of sales on each and every race and the amount of award or dividend to winning patrons.

14. Section 43 of P. L. 1940, c. 17 (C. 5:5-63) is amended to read as follows:

C. 5:5-63 Mutuel board.

43. The machine, or mutuel board, is also to display the approximate odds on each horse in any race; the value of a \$2.00 mutuel ticket, straight, place and show, on the first three horses in any race; the elapsed time of the race; the value of a \$2.00 daily double ticket, if conducted, and any other information that may be necessary for the guidance of the general public. Any such machine must be approved by the commission before it may be used, and to prevent a monopoly in the use of any particular machine or type thereof the commission may in its discretion approve the use of any other machine. No other place or method of betting, pool making, wagering or gambling shall be used or permitted by the holder of a permit, nor shall the parimutuel system of wagering be conducted on any races except horse races at the racetrack where such parimutuel system of wagering is conducted or simulcast horse races as provided by the "Simulcasting Racing Act," sections 1 through 12 of P. L. 1985, c. 269 (C. 5:5-110 et seq.).

15. Section 53 of P. L. 1940, c. 17 (C. 5:5-73) is amended to read as follows:

C. 5:5-73 Permit required.

53. Nothing herein, however, shall be construed to permit the parimutuel system of wagering upon any racetrack unless such racetrack be first granted a permit as provided by this act; and it is hereby declared to be unlawful for any person, partnership, association or corporation to permit, conduct or supervise upon any racetrack the parimutuel system of wagering except in accordance with the provisions of this act or the "Simulcasting Racing Act," sections 1 through 12 of P. L. 1985, c. 269 (C. 5:5-110 et seq.).

16. (New section) For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people for their approval or rejection at the next general election to be held 45 or more days following the date of its enactment.

17. (New section) There shall be printed on each official ballot to be used at such election the following:

If you favor making the act described below operative within the State, make a cross (X), plus (+) or check (✓) in the square opposite the word "Yes."

If you are opposed to making the act described below operative, make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

	Yes.	<p style="text-align: center;">SIMULCASTING HORSE RACING</p> <p>Shall the "Simulcasting Racing Act" and amendments to the horse racing laws, which authorize the simultaneous transmission by picture of horse races from one racetrack to another and the wagering thereon, all as regulated by the State, be approved and become operative?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act would again permit horse racetracks to send and receive televised pictures of races and accept betting on those races. In addition, the act would permit "simulcasting" of certain races from out-of-State, such as the Kentucky Derby, and betting on those races. As shown while it was in effect, simulcasting would create off-season jobs at racetracks that would otherwise be closed, and would produce additional tax revenue to the State Treasury at no cost to the taxpayer. Simulcasting would be licensed and regulated by the New Jersey Racing Commission.</p>

In any election district in which voting machines are used the question shall be placed upon the official ballot to be used upon the voting machines with the foregoing instructions to the voters but with instruction to vote "Yes" or "No" by the use of those machines without marking as aforesaid.

18. (New section) If at that election a majority of all the votes cast both for and against the approval of this act shall be cast in favor of the approval thereof, then all of its provisions shall forthwith take effect throughout the State.

Repealer.

19. Sections 1 to 10 inclusive (C. 5:5-100 to 5:5-109), sections 11 to 13 inclusive, and section 15 of P. L. 1983, c. 340 are repealed.

20. This section and sections 16, 17, 18, and 19 of this act shall take effect immediately and the remainder of the act shall take effect as hereinbefore provided.

Approved August 2, 1985.

CHAPTER 270

AN ACT concerning surety bonds in certain cases and amending
P. L. 1970, c. 262.

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

1. Section 1 of P. L. 1970, c. 262 (C. 17:31-6) is amended to read as follows:

C. 17:31-6 Sureties for auto club bail bonds.

1. Any domestic or foreign surety company which has qualified to transact surety business in this State may, in any year, become surety in an amount not to exceed \$500.00 with respect to any guaranteed arrest bond certificates issued in such year by an automobile club or association, by filing with the Commissioner of Insurance an undertaking thus to become surety.

2. Section 2 of P. L. 1970, c. 262 (C. 17:31-7) is amended to read as follows:

C. 17:31-7 Filing with Insurance Commissioner.

2. Any such undertaking shall be in a form to be prescribed by the Commissioner of Insurance, and subject to such regulations

as he shall from time to time prescribe in regard thereto, and shall state the following:

a. The name and address of the automobile club or clubs or automobile association or associations with respect to guaranteed arrest bond certificates of which the surety company undertakes to be surety;

b. The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed \$500.00 of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, failed to make the appearance for which the guaranteed arrest bond certificate was posted.

3. Section 3 of P. L. 1970, c. 262 (C. 17:31-8) is amended to read as follows:

C. 17:31-8 \$500 maximum.

3. Any guaranteed arrest bond certificate with respect to which a surety company has become surety, as herein provided, shall, when posted by the person whose signature appears thereon, be accepted in lieu of cash bail or other bond in an amount not to exceed \$500.00, as a bail bond, to guarantee the appearance of such person in any court in this State, including all municipal courts in this State, at such time as may be required by such court, when the person is arrested for violation of any motor vehicle law of this State or any motor vehicle ordinance of any municipality in this State, except for the offense of driving under the influence of intoxicating liquors or of drugs or for any high misdemeanor, committed prior to the date of expiration shown on such guaranteed arrest bond certificate; provided that any such guaranteed arrest bond certificate so posted as bail bond in any court in this State shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as otherwise provided by law or as hereafter may be provided by law, and that any such guaranteed arrest bond certificate posted as a bail bond in any municipal court of this State shall be subject to the forfeiture and enforcement provisions of the charter or ordinance of the particular municipality pertaining to bail bonds posted.

4. This act shall take effect immediately.

Approved August 2, 1985.

CHAPTER 271

AN ACT concerning Sunday sales and amending and supplementing
P. L. 1959, c. 119.

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

1. Section 3 of P. L. 1959, c. 119 (C. 2A:171-5.10) is amended
to read as follows:

C. 2A:171-5.10 Definitions.

3. The following definitions are not to be deemed as all-inclusive
and shall apply for the words or terms used in this act unless other
meaning is clearly apparent from the language or context:

“Person” includes natural persons, firms, partnerships, corpora-
tions, associations or other artificial bodies, forms of business
designated or known as cooperatives, trustees, receivers and officers,
employees, agents, and others acting for or on behalf of any
person.

“Clothing and wearing apparel” includes any article or articles
to be worn on the person by man, woman, or child as bodily cover-
ing or protection, including garments of all types, headwear and
footwear.

“Furniture” includes all articles of furniture used inside or out-
side a house or office, including chairs, tables, beds, desks, ward-
robes, dressers, bureaus, cupboards, cabinets, bookcases, sofas,
couches, and related items; and materials especially designed and
prepared for assembly into furniture; and all such furniture,
whether finished or unfinished, painted or unpainted.

“Home furnishings” includes items of equipment and furnish-
ings used in a home or office, such as floor coverings, lamps and
lighting fixtures, household linens, drapes, blinds, curtains, mat-
tresses, bed coverings, mirrors, china, kitchenware and kitchen
utensils, silverware, cutlery.

“Household appliances” includes stoves, heating devices, cook-
ing equipment, refrigerators, air conditioning equipment, electric
fans, clocks, radios, toasters, television sets, washing machines,
dryers, and all such electrical and gas appliances used in the home.

“Building and lumber supply materials” includes all items used in the construction of buildings, whether residential or industrial, and, particularly, but not limited to lumber, cement, building blocks, sashes, frames, windows, doors and related items.

“Sell” means to enter into an agreement whereby the seller transfers ownership of property in the goods or an interest in the goods to the purchaser for a consideration, whether or not the transfer is for immediate or future delivery, and whether or not the transaction is regarded as absolute, conditional or secured, and whether or not immediate consideration is paid therefor. The acceptance of a deposit for future delivery of any such merchandise, or an agreement for future delivery of any such merchandise, whether or not immediate consideration is paid therefor, shall also be deemed a sale for purposes of this act.

“Offer to sell” means the acceptance of bids or proposals for the purchase of goods at a future date or the attempt to induce a sale as hereinabove defined, or the attempt to induce an immediate transfer of any such merchandise, but not to include advertising or display of any such merchandise, which merchandise is not available for purchase on Sunday.

“Engage in selling” means the attempt to sell or to induce an immediate or future transfer of any such merchandise by describing, explaining, extolling or identifying any such merchandise while the seller is in personal contact with the potential purchaser.

“Sunday sales” means selling, attempting to sell, offering to sell or engaging in selling the goods enumerated in section 1 of P. L. 1959, c. 119 (C. 2A:171-5.8) on Sunday.

2. Section 5 of P. L. 1959, c. 119 (C. 2A:171-5.12) is amended to read as follows:

C. 2A:171-5.12 Referendum.

5. This act shall not become operative in any county unless and until the voters of the county shall determine by referendum held pursuant to this act that Sunday sales shall not be permitted in the county.

3. Section 6 of P. L. 1959, c. 119 (C. 2A:171-5.13) is amended to read as follows:

C. 2A:171-5.13 Petition for public question.

6. In any county in which there shall be filed with the county clerk prior to the forty-fifth day preceding a general election, a

petition signed by not less than 2,500 registered voters of the county requesting that there shall be submitted to the voters of the county a public question as to whether Sunday sales shall be permitted in said county, said question shall be submitted to the voters of said county at such election.

4. Section 7 of P. L. 1959, c. 119 (C. 2A:171-5.14) is amended to read as follows:

C. 2A:171-5.14 Ballots.

7. There shall be printed on each official ballot to be used at such election, the following:

If you favor the proposition printed below make a cross (X), plus (+) or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

	Yes.	Shall Sunday sales be permitted in this county?
	No.	

In any municipality in which voting machines are used, the question shall be placed upon the official ballots to be used upon the voting machines without the foregoing instructions to the voters and shall be voted upon by the use of such machines without marking as aforesaid.

5. Section 8 of P. L. 1959, c. 119 (C. 2A:171-5.15) is amended to read as follows:

C. 2A:171-5.15 Results of election.

8. If at the election at which such question is submitted as provided in this act the majority of all the votes cast, both for and against such question, in said county, shall be cast against the question, the provisions of this act shall be operative in such county upon the first Sunday following the date of the holding of said election, but if a majority of all such votes shall be cast in favor of the question, the provisions of this act shall remain inoperative in such county.

C. 2A:171-5.22 Resubmission.

6. (New section) In any county of the first class having a population of less than 600,000, according to the most recent federal

decennial census, in which a question pursuant to section 7 of P. L. 1959, c. 119 (C. 2A:171-5.14) has at any time been submitted to the voters and in which there shall be filed with the county clerk prior to the forty-fifth day preceding a general election a petition signed by not less than 2,500 registered voters of the county requesting that a question be resubmitted to the voters of the county, a question may be resubmitted to those voters not sooner than on the second consecutive general election following the original submission of the question in the manner and form as provided in section 7 of P. L. 1959, c. 119 (C. 2A:171-5.14), as revised by this amendatory and supplementary act. The results of any such resubmission shall take effect on the first Sunday following the election at which the question is resubmitted.

C. 2A:171-5.23 Prior referenda.

7. (New section) The provisions of this amendatory and supplementary act shall not invalidate any referendum held pursuant to the provisions of P. L. 1959, c. 119 (C. 2A:171-5.8 et seq.) prior to the effective date of this amendatory and supplementary act.

8. This act shall take effect immediately, but shall not affect any referendum held pursuant to a petition filed on or before the effective date of this act.

Approved August 2, 1985.

CHAPTER 272

AN ACT to amend the "Cosmetology and Hairstyling Act of 1984," approved December 4, 1984 (P. L. 1984, c. 205).

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

1. Section 17 of P. L. 1984, c. 205 (C. 45:5B-17) is amended to read as follows:

C. 45:5B-17 Cosmetologist-hairstylist.

17. An applicant seeking licensure as a cosmetologist-hairstylist, who does not at the time of that application hold a license to practice barbering issued by the Board of Barber Examiners or the board or a license to practice beauty culture issued by the Board of Beauty Culture Control or the board, shall:

a. Demonstrate successful completion of high school or its equivalent; and

b. Demonstrate successful completion of a course in cosmetology and hairstyling consisting of:

(1) 1,200 hours of instruction at a school of cosmetology and hairstyling licensed in this State, or

(2) A program in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or

(3) 1,200 hours of instruction at a school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or a foreign country which, in the opinion of the board, offers curricula which is substantially similar to that offered at licensed schools within the State; and

c. Take and pass an examination conducted by the board, as provided by this act.

2. Section 20 of P. L. 1984, c. 205 (C. 45:5B-20) is amended to read as follows:

C. 45:5B-20 Beautician.

20. An applicant seeking initial licensure as a beautician, who does not hold a license to practice beauty culture issued by the Board of Beauty Culture Control, shall:

a. Demonstrate successful completion of high school or its equivalent;

b. Demonstrate that he was a registered student at a school of cosmetology and hairstyling, or beauty culture in this State on or before the effective date of this act or enrolled in an approved vocational course of instruction in beauty culture on or before the effective date of this act;

c. Demonstrate successful completion of a 1,200 hour course of instruction in beauty culture within two years of the effective date of this act at a school of cosmetology and hairstyling licensed in this State, or a program at a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or beauty culture; and

d. Take and pass an examination conducted by the board, as provided by this act.

3. This act shall take effect immediately.

Approved August 2, 1985.

CHAPTER 273

AN ACT appropriating \$11,350,000.00 from the "Jobs, Science and Technology Bond Act of 1984" for the purpose of establishing and constructing a network of undergraduate technical facilities and advanced technology centers at 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 New Jersey Commission on Science and Technology, established pursuant to P. L. 1985, c. 102 (C. 52:9X-1 et seq.) from the "Jobs, Science and Technology Fund" created pursuant to the "Jobs, Science and Technology Bond Act of 1984," P. L. 1984, c. 99, the sum of \$10,650,000.00 for the purpose of establishing and constructing a network of advanced technology centers at public and private institutions of higher education. This sum shall be allocated as follows:

a. \$9,000,000.00 for the construction of advanced technology centers as follows:

- (1) Construction of and equipment for a cell separation facility at the Waksman Institute of Microbiology, Rutgers, The State University \$4,000,000
- (2) Construction of a molecular biology facility at Princeton University \$5,000,000

b. \$1,650,000.00 for planning and design studies for the advanced technology centers as follows:

- (1) Center in Biotechnology \$640,000
- (2) Center in Industrial Ceramics \$300,000
- (3) Center in Food Technology \$160,000
- (4) Center in Hazardous and Toxic Substance Management \$500,000
- (5) Professional Services to the New Jersey Commission on Science and Technology \$ 50,000

2. There is appropriated to the Department of Higher Education from the "Jobs, Science and Technology Fund" created pursuant to the "Jobs, Science and Technology Bond Act of 1984," P. L. 1984, c. 99, the sum of \$700,000.00 for the purpose of establishing, constructing, and improving undergraduate technical and engineering related facilities at public and private institutions of higher education. This sum shall be allocated as follows:

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|--|-----------|
| a. Initial planning, design, document development and preparation of construction contract documents for a Computer Assisted Design—Computer Assisted Manufacturing Center at Camden County College to be operated in conjunction with the New Jersey Institute of Technology .. | \$400,000 |
| b. Initial planning, design, document development and preparation of construction contract documents for an Education Center at Burlington County College to be operated in conjunction with the New Jersey Institute of Technology | \$100,000 |
| c. Consultant analysis of proposals and initial planning and schematic design development review by Department of Higher Education staff and consultants for projects to be funded under facilities, job training and capital construction grants | \$200,000 |

3. The expenditure of the sums appropriated by this act is subject to provisions and conditions of P. L. 1984, c. 99.

4. In order to provide flexibility in administering this act, the Chancellor of Higher Education or the New Jersey Commission on Science and Technology, as appropriate, 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 in this act. Upon the approval of an application by the director and by the Subcommittee on Transfers of the Joint Appropriations Committee or its successor, in writing, the director shall make the transfer as provided by law.

5. This act shall take effect immediately.

Approved August 7, 1985.

CHAPTER 274

AN ACT providing for the inclusion in certain medical service contracts of benefits for expenses incurred in connection with pregnancy and childbirth, amending P. L. 1979, c. 327 and supplementing P. L. 1940, c. 74 (C. 17:48A-1 et seq.).

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

1. Section 5 of P. L. 1979, c. 327 (C. 17:48A-6.5) is amended to read as follows:

C. 17:48A-6.5 Second opinion exclusions.

5. A second surgical opinion program may exclude benefits while the patient is confined in a hospital as an inpatient, any surgical procedures not covered by the group or individual contract, and surgical procedures in the following categories: cosmetic surgery, dental surgery, and podiatric surgery.

C. 17:48A-7c Medical service contracts.

2. (New section) Every group and individual contract providing medical service benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this amendatory and supplementary act, shall offer coverage for maternity care without regard to marital status to subscribers or other persons covered thereunder for expenses incurred in pregnancy and childbirth. The maternity benefits shall be provided to the same extent as the benefits are provided in the contract for any other covered illness. If a fixed amount is specified in the contract for surgery, the fixed amount for a pregnancy-related surgical procedure shall be commensurate with the fixed amount payable for a surgical procedure of comparable difficulty and severity.

3. (New section) The Commissioner of Insurance shall promulgate the rules and regulations necessary to effectuate the purpose of this amendatory and supplementary act.

4. This act shall take effect 90 days following enactment.

Approved August 8, 1985.

CHAPTER 275

AN ACT providing for the inclusion in certain health insurance policies of benefits for expenses incurred in connection with pregnancy and childbirth, amending P. L. 1979, c. 328 and supplementing Chapter 26 of Title 17B of the New Jersey Statutes.

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

1. Section 5 of P. L. 1979, c. 328 (C. 17B:26-2.6) is amended to read as follows:

C. 17B:26-2.6 Excluded surgical procedures.

5. The second surgical opinion benefit provisions of a policy may exclude benefits while the patient is confined in a hospital as an inpatient, any surgical procedures not covered by the policy and surgical procedures in the following categories: cosmetic surgery, dental surgery, and podiatric surgery.

C. 17B:26-2.1b Health insurance policies.

2. (New section) Every health insurance policy providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this amendatory and supplementary act, shall offer coverage for maternity care without regard to marital status to subscribers or other persons covered thereunder for expenses incurred in pregnancy and childbirth. The coverage for the expenses of pregnancy and childbirth shall be provided to the same extent as the hospitalization benefits are provided in the policy for any other covered illness. If a fixed amount is specified in the policy for surgery, the fixed amount for a pregnancy-related surgical procedure shall be commensurate with the fixed amount payable for a surgical procedure of comparable difficulty and severity.

3. (New section) The Commissioner of Insurance shall promulgate the rules and regulations necessary to effectuate the purpose of this amendatory and supplementary act.

4. This act shall take effect 90 days following enactment.

Approved August 8, 1985.

CHAPTER 276

AN ACT providing for the inclusion in certain hospital service contracts of benefits for expenses incurred in connection with pregnancy and childbirth and supplementing P. L. 1938, c. 366 (C. 17:48-1 et seq.).

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

C. 17:48-6c Hospital service contracts.

1. Every group and individual contract providing hospital service benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act, shall offer coverage for maternity care without regard to marital status to subscribers or other persons covered thereunder for expenses incurred in pregnancy and childbirth. The maternity benefits shall be provided to the same extent as the hospitalization benefit is provided in the contract for any other covered illness.

2. The Commissioner of Insurance shall promulgate the rules and regulations necessary to effectuate the purposes of this act.

3. This act shall take effect 90 days following enactment.

Approved August 8, 1985.

CHAPTER 277

AN ACT providing for the inclusion in certain health insurance policies of benefits for expenses incurred in connection with pregnancy and childbirth, amending P. L. 1979, c. 329 and supplementing Chapter 27, of Title 17B of the New Jersey Statutes.

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

1. Section 6 of P. L. 1979, c. 329 (C. 17B:27-46.7) is amended to read as follows:

C. 17B:27-46.7 Permissible benefit exclusions.

6. A second surgical opinion program may exclude benefits while the patient is confined in a hospital as an inpatient, any surgical procedure not covered by the group insurance policy, and surgical procedures in the following categories: cosmetic surgery, dental surgery, and podiatric surgery.

C. 17B:27-46.1b Group health insurance policies.

2. (New section) Every group health insurance policy providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this amendatory and supplementary act, shall offer coverage for maternity care without regard to marital status to subscribers or other persons covered thereunder for expenses incurred in pregnancy and childbirth. The benefits for the expenses of pregnancy and childbirth shall be provided to the same extent as the hospitalization benefit is provided in the policy for any other covered illness. If a fixed amount is specified in the policy for surgery, the fixed amount for a pregnancy-related surgical procedure shall be commensurate with the fixed amount payable for a surgical procedure of comparable difficulty and severity.

3. (New section) The Commissioner of Insurance shall promulgate the rules and regulations necessary to effectuate the purposes of this amendatory and supplementary act.

4. This act shall take effect 90 days following enactment.

Approved August 8, 1985.

CHAPTER 278

AN ACT concerning child support enforcement, revising parts of the statutory law 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:17-56.26 Short title.

1. This act shall be known and may be cited as the "Support Enforcement Act of 1985."

2. Section 2 of P. L. 1981, c. 417 (C. 2A:17-56.8) is amended to read as follows:

C. 2A:17-56.8 Enforcement of support orders.

2. Every order of a court for alimony, maintenance or child support payments shall include a written notice to the obligor stating that the order shall be enforced by an income withholding upon the current or future income due from the obligor's employer or successor employers and upon the unemployment compensation benefits due the obligor and against debts, income, trust funds, profits or income from any other source due the obligor. The court shall ensure that in the case of each obligor against whom a support order is or has been issued or modified, the obligor's income shall be withheld to comply with the order. An amount shall be withheld to pay the support obligation and it shall include an amount to be applied toward liquidation of arrearages reduced to judgments and payments for paternity testing procedures. The income withholding provisions shall also be applicable to all orders issued on or before the effective date of this act.

3. Section 3 of P. L. 1981, c. 417 (C. 2A:17-56.9) is amended to read as follows:

C. 2A:17-56.9 Income withholding.

3. The income withholding shall be initiated by the probation department of the county in which the obligor resides after the obligor has failed to make a required alimony, maintenance or child support payment that has arrearages accrued in an amount equal to the amount of the support payable for 14 days. Subject to the provisions of this act, the income withholding shall take effect without amendment to the support order or further court or quasi-judicial action. The total amount of income to be withheld shall not exceed the maximum amount permitted under section 303 (b) of the federal Consumer Credit Protection Act (15 U. S. C. § 1673 (b)). The income withholding shall be carried out in full compliance with all procedural due process requirements. The Administrative Office of the Courts shall establish procedures for promptly terminating the withholding when necessary and for promptly refunding amounts which have been improperly withheld.

4. Section 4 of P. L. 1981, c. 417 (C. 2A:17-56.10) is amended to read as follows:

C. 2A:17-56.10 Notice to obligor; contest of withholding.

4. a. The probation department shall notify the obligor of the income withholding by certified or registered mail with return

receipt requested to the last known address. The notice shall be postmarked no later than 10 days after the date on which the application was filed, and shall inform the obligor that the withholding shall take effect 10 days after the postmark date of the notice unless the obligor contests the withholding. An obligor may contest a withholding only on the basis of mistake of fact. The notice to the obligor shall include but not be limited to: the amount to be withheld, including an amount to be applied toward liquidation of arrearages; a statement that the withholding applies to current and subsequent sources of income; the methods available for contesting the withholding on the grounds that the withholding is not proper because of mistake of fact; the period within which the probation department shall be contacted in order to contest the withholding and that failure to do so will result in notifying the payor to begin withholding; and the actions the probation department will take if the individual contests the withholding.

If an obligor contests the proposed withholding, the probation department shall schedule a hearing within 20 days after receiving notice of contest of the withholding. If it is determined that the withholding is to occur, the probation department shall provide notice to the obligor. Notice to the obligor shall include the time within which the withholding is to begin. Notice to the obligor shall also include all of the information that is included in the notice to the payor in section 5 of this act. The obligor shall be notified by the probation department within five days of the determination made at the hearing.

b. The probation department shall prepare the income withholding notice when the obligor does not contest the withholding or has exhausted all procedures established by the Administrative Office of the Courts for contesting the withholding. The income withholding shall include requirements that a payor withhold the amount specified in the notice and shall include a statement that the amount actually withheld for support and for other purposes may not be in excess of the amount allowed under section 303 (b) of the federal Consumer Credit Protection Act (15 U. S. C. § 1673 (b)). On any order modifying alimony, maintenance or child support based upon changed circumstances, the income withholding amount shall also be changed accordingly. This income withholding shall have priority over any other withholdings without regard to the dates of the other income withholdings.

c. An income withholding made under this act shall continue in

full force and effect until such time as a court order to the contrary is entered upon the liquidation of all arrearages.

d. Where there is more than one support order for withholding against a single obligor, the payor shall withhold the payments to fully comply with the court orders on a pro rata basis to the extent that the total amount withheld from the obligor's wages does not exceed the limits allowed under section 303 (b) of the federal Consumer Credit Protection Act (15 U. S. C. § 1673 (b)). Payors may combine withheld amounts in a single payment for each appropriate probation department requesting withholding and separately identify the portion of the payment which is attributable to each individual obligor.

5. Section 5 of P. L. 1981, c. 417 (C. 2A:17-56.11) is amended to read as follows:

C. 2A:17-56.11 Notice to payor.

5. An income withholding made under this act shall be binding upon the payor and successor payors 14 days after service upon the payor by the probation department of a copy of the income withholding, by registered or certified mail with return receipt requested until further order. The payor is to pay the withheld amount to the probation department at the same time the obligor is paid. The payor shall implement withholding no later than the first pay period that occurs 14 days after the date the notice was postmarked. For each payment, the payor may receive \$1.00, which shall be deducted from the obligor's income in addition to the amount of the support order.

Notice to the payor shall include, but not be limited to, the amount to be withheld from the obligor's income and a statement that the amount actually withheld for support and other purposes may not be in excess of the maximum amount permitted under section 303 (b) of the federal Consumer Credit Protection Act (15 U. S. C. § 1673 (b)); that the payor shall send the amount to the probation department at the same time the obligor is paid, unless the probation department directs that payment be made to another individual or entity; that the payor may deduct a fee of \$1.00 in addition to the amount of the support order; that withholding is binding on the payor until further notice by the probation department; that the payor is subject to a fine for discharging an obligor from employment, refusing to employ, or taking disciplinary action against an obligor because of the withholding; that if the payor fails to

withhold wages in accordance with the provisions of the notice, the payor is liable for any amount up to the accumulated amount the payor should have withheld from the obligor's income; that the withholding shall have priority over any other legal process under State law against the same wages; that the payor may combine withheld amounts from the obligor's wages in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual obligor; that if there is more than one support order for withholding against a single obligor, the payor shall withhold the payments on a pro rata basis to fully comply with the support orders, to the extent that the total amount withheld does not exceed the limits imposed under section 303 (b) of the federal Consumer Credit Protection Act (15 U. S. C. § 1673 (b)); that the payor shall implement withholding no later than the first pay period that occurs 14 days after the date the notice was postmarked; and that the payor shall notify the probation department promptly upon the termination of the obligor's employment benefits and provide the obligor's last known address and the name and address of the obligor's new payor, if known.

6. Section 6 of P. L. 1981, c. 417 (C. 2A:17-56.12) is amended to read as follows:

C. 2A:17-56.12 No discharge or discipline; suit by obligor.

6. The payor may not use an income withholding as a basis for the discharge of any obligor or for any disciplinary action against the obligor. A payor who discharges or disciplines an obligor in violation of this act or who discriminates in hiring because of an income withholding or a potential withholding is a disorderly person. Any obligor claiming to be aggrieved by an unlawful discharge may initiate suit in Superior Court for damages and reinstatement of employment. In any action, the prevailing party may be awarded reasonable attorney's fees; provided, however, that no attorney's fees shall be awarded to the respondent unless there is a determination that the action was brought in bad faith. In addition to any other relief or affirmative action provided by law, the payor may be liable for twofold compensatory damages. Compensatory damages shall include the costs of proving the discharge, out-of-pocket expenses, and lost income. If the payor fails to withhold the amount of the order, the payor is liable for amounts up to the accumulated amount the payor should have withheld. Payors shall notify the probation department promptly of the termination of

the obligor's employment and provide the obligor's last known address and the name and address of the obligor's new payor, if known.

7. Section 7 of P. L. 1981, c. 417 (C. 2A:17-56.13) is amended to read as follows:

C. 2A:17-56.13 Payment through probation department.

7. In every award for alimony, maintenance or child support payments the judgment or order shall provide that payments be made through the probation department of the county in which the obligor resides, unless the court, for good cause shown, otherwise orders. Each judgment or order for alimony, maintenance or child support shall include an order that the obligor and obligee notify the appropriate probation department of any change of payor or change of address within 10 days of the change. Failure to provide this information shall be considered a violation of this order.

Service at the address of record of all summonses, pleadings, or notices shall be effective for all purposes. When an obligor changes employment within the State while income withholding is in effect, the probation department shall notify the new payor that the withholding is binding on the new payor. When a probation department is unable to locate the obligor's current payor in order to effectuate an income withholding under this act, the probation department is authorized to utilize any other procedure authorized by law to obtain this information.

8. Section 8 of P. L. 1981, c. 417 (C. 2A:17-56.14) is amended to read as follows:

C. 2A:17-56.14 Application by obligee for withholding.

8. An obligee who does not receive payments made through the probation department shall file an affidavit when applying for the income withholding, stating that the payments not made for support have accrued arrearages in an amount equal to the amount of support payable for 14 days. The probation department shall administer the withholding in accordance with procedures specified for keeping adequate records to document, track, and monitor support payments or establish or permit the establishment of alternative procedures for the collection and distribution of amounts withheld by an entity other than a designated public agency. Alimony, maintenance or child support payments not presently made through the probation department shall be so made upon application of the obligee unless the obligor upon application to the court shows good cause to the contrary.

A monitoring fee of \$25.00 annually shall be applied upon the request of either the obligor or obligee for the payment of support through the probation department, regardless of whether or not arrearages exist or withholding procedures have been instituted. The probation department shall monitor all amounts paid and the dates of payments and record them on a separate form.

The court and the probation department shall follow the procedures established in this act.

9. N. J. S. 2A :34-24 is amended to read as follows :

Lien; security.

2A :34-24. If an obligor spouse shall abandon the obligee spouse or separate from the obligee and refuse or neglect to maintain and provide for the obligee, the court may order suitable support and maintenance to be paid and provided by the obligor for the obligee and their children, or any of them, by their marriage. If the obligor fails to comply with the order of the court, entered in New Jersey or another jurisdiction, the court may impose a lien against the real and personal property of the obligor who lives in or owns property in New Jersey to secure payment of the overdue support and for such time as the nature of the case and circumstances of the parties render suitable and proper. Such lien shall have priority over any claim that may interrupt the support and maintenance for the obligee and their children, or any of them.

If the circumstances warrant, for such overdue support or maintenance, upon reasonable notice, the court may compel the obligor to give reasonable security, post a bond or other guarantee for such overdue support and for present and future support and maintenance and may, from time to time, make further orders touching the same, as shall be just and equitable, and enforce such judgment and orders in the manner provided in N. J. S. 2A :34-23.

10. Section 18 of P. L. 1983, c. 17 (C. 9:17-55) is amended to read as follows :

C. 9:17-55 Enforcing parties.

18. a. If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this act or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, and child, the public agency that has furnished or may furnish the reasonable expenses of pregnancy, postpartum disability, education, support, medical expenses, or burial, or by any other person,

including a private agency, to the extent that the mother, child, person or agency has furnished or is furnishing these expenses.

b. The court may order support payments to be made to the mother, the clerk of the court, the appropriate probation department, or a person, corporation, or agency designated to administer them for the benefit of the child, under the supervision of the court.

c. Willful failure to obey the judgment or order of the court is a civil contempt of the court.

11. Section 14 of P. L. 1977, c. 17 (C. 54:4-3.92a) is amended to read as follows:

C. 54:4-3.92a Income withholding from homestead tax rebate.

14. The homestead tax rebate authorized under this act shall not be subject to any garnishment, attachment, execution or other legal process under any circumstances whatsoever, except for an income withholding order issued pursuant to P. L. 1981, c. 4 (C. 2A:17-56.7 et seq.), nor shall the payment thereof be anticipated.

12. Section 1 of P. L. 1981, c. 239 (C. 54A:9-8.1) is amended to read as follows:

C. 54A:9-8.1 Precedence of child support indebtedness.

1. Whenever any taxpayer or homeowner shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax" (N. J. S. 54A:1-1 et seq.) or a homestead rebate pursuant to P. L. 1976, c. 72 (C. 54:4-3.80 et seq.), and at the same time the taxpayer or homeowner shall be indebted to any agency or institution of State Government or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U. S. C. § 601 et seq.), the Department of the Treasury shall apply or cause to be applied the refund or rebate, or both, or so much of either or both as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

C. 2A:17-56.16 Tax setoff.

13. (New section) The Administrative Office of the Courts shall promulgate rules and regulations concerning procedures for determining which support cases are appropriate for application of tax setoff, for verifying the accuracy of the amounts referred for setoff, notifying the State Department of the Treasury of any child support indebtedness subject to section 1 of P. L. 1981, c. 239 (C.

54A :9-8.1) and changes thereto, and any other procedures necessary to comply with Pub. L. 98-378.

C. 2A:17-56.17 Definitions.

14. (New section) As used in this amendatory and supplementary act:

a. "Income" means, but is not limited to, the obligor's commissions, salaries, earnings, wages, rent monies, unemployment compensation, worker's compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, claims, assets of estates, trusts, federal income tax refunds, State income tax refunds, homestead rebates, State lottery prizes, casino and race-track winnings, annuities, retirement benefits, veteran's benefits, union benefits, or other source that may be defined as "income."

b. "Support order" means an order, decree, or judgment for the support or for the payment of arrearages on such support of a child, spouse, or former spouse, issued by a court or administering IV-D agency within the State of New Jersey or another jurisdiction, whether interlocutory or final, whether prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, separation, separate maintenance, paternity, guardianship, civil protection, or otherwise.

c. "Jurisdiction" means any State or political subdivision, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

d. "State IV-D agency" means the agency in the Department of Human Services designated to administer the Title IV-D Child Support Program.

e. "Child" means a child, whether above or below the age of majority, for whom a support order exists.

f. "Title IV-D" means Part D, "Child Support and Establishment of Paternity," of subchapter IV of the Social Security Act (42 U. S. C. § 651 et seq.).

g. "Obligor" means the absent parent or any other person required to make payments under the terms of a support order for a child, spouse, or former spouse.

h. "Obligee" means the individual or entity entitled to receive support under an order of support and shall include agencies of this and another jurisdiction to which an obligee has assigned the obligee's right to support.

i. "Payor" means any payor of income to an obligor and shall include an obligor's employer.

j. "Consumer reporting agency" means a credit reporting agency as defined in the federal Fair Credit Reporting Act (15 U. S. C. § 1681a (f)) as any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

C. 2A:17-56.18 Support orders of other states.

15. (New section) The income withholding provisions pursuant to P. L. 1981, c. 417 (C. 2A:17-56.7 et seq.) shall be extended to include a withholding of income for support orders issued in another state.

If an obligor with a support order issued in another state has income derived from within this State, the probation department shall comply with the applicable provisions of this act. Withholding shall be implemented promptly and the payor shall be required to comply with the withholding notice.

When an obligor terminates employment within the State, the probation department shall notify the state where the order was entered of the obligor's termination from employment and the obligor's new address and new payor, if known.

C. 2A:17-56.19 Forwarding to payor's state.

16. (New section) When an income withholding order has been issued in this State, it shall promptly be forwarded to the appropriate child support enforcement administrative agency in the payor's state. All procedural due process requirements of the state where the obligor has income shall apply to the income withholding.

C. 2A:17-56.20 Late fee, interest.

17. (New section) a. In enforcing all existing and future orders for support, and notwithstanding other provisions to the contrary, the State IV-D agency, without a new order, shall have the authority to assess interest or late payment fees on any support order not paid within 30 days of the due date.

b. The late payment fee or interest shall be determined by the State IV-D agency within amounts specified by the federal Department of Health and Human Services.

c. The fee or interest shall accrue as arrearages accumulate and shall not be reduced upon partial payment of arrears. The fee or interest may be collected only after the full amount of overdue support is paid and all State requirements for notice to the obligor have been met.

d. The collection of the fee or interest shall not directly or indirectly reduce the amount of current or overdue support paid to the obligee to whom it is owed.

e. The late payment fee or interest shall be uniformly applied in all cases administered under the State IV-D program, including public assistance, nonpublic assistance, and foster care cases.

C. 2A:17-56.21 Provision of information to consumer reporting agencies.

18. (New section) a. The State IV-D agency shall have the authority to make available information on overdue support owed by obligors to consumer reporting agencies upon their request, subject to the conditions set forth in this section.

b. In all State IV-D agency cases where the obligor is more than \$1,000.00 in arrears, the information shall be made available upon the consumer reporting agency's request and may be made available in all other cases.

c. The State IV-D agency may establish a fee for all requests which will be uniformly applied in all IV-D cases. Any fee charged shall be limited to the actual cost of providing the information.

d. The obligor shall receive written notice that the information will be made available to the credit reporting agency. The obligor shall have an opportunity to contest the accuracy of the information.

e. The State IV-D agency shall comply with all applicable procedural due process requirements before releasing information.

C. 2A:17-56.22 Application fee.

19. (New section) a. The State IV-D agency shall have the authority to charge an application fee to individuals not receiving Aid to Families with Dependent Children who apply for IV-D services.

b. The application fee shall be uniformly applied on a Statewide basis and shall be a flat dollar amount not to exceed \$25.00 or other amount as may be appropriate for any fiscal year to reflect administrative costs.

c. The fee shall be collected directly from the obligee who applied for IV-D services.

d. The State IV-D agency shall determine by regulation the distribution of the fees collected.

C. 2A:17-56.23 Expedition of child support cases.

20. (New section) The Supreme Court shall adopt by court rule a system for expediting child support cases as required by Pub. L. 98-378 (42 U. S. C. § 601 et seq.).

C. 2A:17-56.24 Monitoring program; report.

21. (New section) a. The probation department in each county shall monitor the overall implementation of the State's child support enforcement program pursuant to Part D of subchapter IV of the Social Security Act (42 U. S. C. § 651 et seq.), to ensure compliance with the provisions of this amendatory and supplementary act by collecting and maintaining individual and aggregate case statistics as required by the Administrative Office of the Courts.

b. The probation department in each county shall provide aggregate statistical reports of case statistics monthly to the State IV-D agency and the Administrative Office of the Courts.

c. The State IV-D agency shall compile the monthly statistical reports submitted by the probation departments and report to the Legislature on the agency's assessment of the effectiveness of this amendatory and supplementary act in enforcing support orders, 18 months after the effective date of this amendatory and supplementary act.

C. 2A:17-56.25 Rules, regulations.

22. (New section) The Department of Human Services shall promulgate rules and regulations pursuant to its rule-making authority under the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) in order to effectuate the purposes of this act.

Repealer.

23. Section 12 of P. L. 1981, c. 417 (C. 2A:17-56.15) is repealed.

24. This act shall take effect on October 1, 1985.

Approved August 8, 1985.

CHAPTER 279

AN ACT concerning the use of certain moneys appropriated from the Energy Conservation Fund and amending P. L. 1983, c. 104.

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

1. Section 1 of P. L. 1983, c. 104 is amended to read as follows:

1. There is appropriated to the Department of Energy from the "Energy Conservation Fund" created pursuant to the "Energy Conservation Bond Act of 1980," P. L. 1980, c. 68, the sum of \$2,000,000.00 for the purpose of conducting energy audits of public buildings, institutions and educational facilities. If the department determines that all or a portion of this sum is not needed for energy audits, the department may use that money for the renovation of public buildings, institutions and educational facilities, if a net reduction in energy consumption would result therefrom.

2. This act shall take effect immediately.

Approved August 9, 1985.

CHAPTER 280

A SUPPLEMENT to the "Hotel and Multiple Dwelling Law," approved May 31, 1967 (P. L. 1967, c. 76; C. 55:13A-1 et seq.), as said short title was amended by P. L. 1970, c. 138.

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

C. 55:13A-7.3 Parking for handicapped.

1. Any owner of a multiple dwelling which, as of the enactment of this act or at any time thereafter, provides parking to the occupants thereof, and in which a handicapped person resides, shall provide parking spaces for occupants who are handicapped located at the closest possible proximity to the principal accesses of the multiple dwelling.

A minimum of 1% of the total number of parking spaces provided for the occupants of the multiple dwelling, but not less than

one parking space, shall be set aside as parking for the handicapped. Each space or group of spaces shall be identified with a clearly visible sign displaying the International Symbol of Access along with the following wording: "This space reserved for physically handicapped drivers." Where possible, the space shall be 12 feet wide to allow room for a person in a wheelchair or on braces or crutches to get in and out of either side of an automobile onto a level, paved surface suitable for wheeling and walking and shall be located so that a person in a wheelchair or using braces or crutches is not compelled to wheel or walk behind parked cars. Where applicable, curb ramps shall be provided to permit a handicapped person access from the parking area to the sidewalk.

For purposes of this section "handicapped" means a physical impairment which confines a person to a wheelchair; causes a person to walk with difficulty or insecurity; affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger; causes faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

C. 55:13A-7.4 5-unit minimum.

2. This act shall not apply to any multiple dwelling with fewer than 5 units.

3. This act shall take effect 180 days following enactment.

Approved August 9, 1985.

CHAPTER 281

AN ACT concerning death benefits paid to minor children of certain municipal employees and amending P. L. 1964, c. 275.

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

1. Section 7 of P. L. 1964, c. 275 (C. 43:13-22.56) is amended to read as follows:

C. 43:13-22.56 Death benefits.

7. Death benefits.

(a) Upon the death of a member in service who shall have paid into the fund the full amount of his contributions and who shall die as a result of injuries or illness received or incurred in the performance of his duties or who shall have served in the employ of the city for 20 or more years; or upon the death of a member who shall have been retired and pensioned under this act.

A pension of \$2,500.00 per annum shall be paid to the surviving widow, so long as she remains unmarried, surviving widower, so long as he remains unmarried, minor children or dependent parents, as the case may be. If the pension is payable to minor children, no one of such children shall receive more than \$2,500.00 per annum, nor shall a pension be paid to any such child after he marries or reaches the age of 18 years.

(b) Upon the death of a member in service who shall have paid into the fund the full amount of his contributions and who shall die for causes other than injuries or illness received or incurred in the performance of his duties and who shall have served in the employ of the city for five or more years but less than 20 years.

A pension in an amount equal to $2\frac{1}{2}\%$ of the member's final salary for each year of his service shall be paid to the surviving widow, so long as she remains unmarried, surviving widower, so long as he remains unmarried, minor children or dependent parents, as the case may be; provided, however, that in no instance shall such pension exceed, in the aggregate, an amount equal to \$100.00 per annum for each year of the member's service. If the pension is payable to minor children, no one of such children shall receive more than \$2,500.00 per annum, nor shall a pension be paid to any such child after he marries or reaches the age of 18 years.

In the event a pension shall be payable as a result of the death of a member in service and there are no eligible survivors at the time of such member's death, an amount equal to such member's contributions to the fund, without interest, shall be paid to his estate.

If at the time of the death of a member in service the sole eligible survivors of such member are minor children and the total of the aggregate payments on account of such children shall be an amount which is less than such member's contributions to the fund, without interest, the balance of such amount shall be payable to the guardian of such minor children.

2. This act shall take effect immediately.

Approved August 9, 1985.

CHAPTER 282

AN ACT concerning the burial of certain persons, amending P. L. 1951, c. 138 and R. S. 44:7-13 and supplementing Title 44 of the Revised Statutes.

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

1. Section 32 of P. L. 1951, c. 138 (C. 30:4C-32) is amended to read as follows:

C. 30:4C-32 Public funds for child's burial.

32. Whenever a child receiving care, custody, or guardianship as provided by this act has died, and an investigation by the Division of Youth and Family Services discloses that there are insufficient funds from any other source to provide proper burial, such division shall authorize the expenditure of an amount reasonably necessary to provide proper burial for such child, and such amount shall be a proper charge against State and county funds, within the limits of available appropriations, in the same manner and extent as expenditures for maintenance.

The amount reasonably necessary to provide proper burial shall be determined by the average cost for a proper burial and funeral charged by funeral directors in the locality in which the child is buried.

2. R. S. 44:7-13 is amended to read as follows:

Burial of old-age assistance recipient.

44:7-13. If, on the death of a person receiving old-age assistance, it shall appear to the satisfaction of the county welfare agency after investigation that there are insufficient funds to pay his burial and funeral expenses, and that there are no relatives or other persons responsible to pay such expenses, or other persons willing to pay them, the county welfare agency may order the payment of such sum as may be necessary pursuant to P. L. 1985, c. 282, to such person as the county welfare agency may direct for the funeral expenses of the deceased aged needy person and an additional sum for the cost of a cemetery plot, the opening or closing of a grave, or other similar burial or interment expenses which sum shall be determined pursuant to P. L. 1985, c. 282 and shall be paid by the county welfare board directly to the cemetery expressly for such

purposes. The next of kin or other interested parties may incur additional expenses to be paid by them, but the total cost of such expenses shall be established by regulation of the Department of Human Services pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and in accordance with P. L. 1985, c. 282.

Any sum so ordered to be paid for or on account of burial and funeral expenses shall be first paid, so far as possible, from any fund otherwise undistributed received by the county welfare agency from or for the account of the individual recipient, and may thereafter be paid, so far as necessary, from funds appropriated for old-age assistance payments. Any amounts so paid from funds appropriated for old-age assistance payments shall be deemed a part of the assistance granted to the individual recipient for the purpose of claims for reimbursement, and recovery under sections 44:7-14, 44:7-15 and 44:7-19, Revised Statutes, and shall be a proper charge for division of cost between the State and county as referred to in section 44:7-25 of this Title.

Payment of burial and funeral expenses as provided above may be authorized with respect to any person who, while lawfully receiving old-age assistance is committed or admitted to any tax-supported institution other than a penal or correctional institution, and who dies while confined at such institution.

The county welfare agency shall not be liable to pay costs of burial and funeral expenses for a deceased recipient of old-age assistance incurred pursuant to a contract or contracts entered into without the knowledge and consent of the board, but may, at its discretion, pay such costs, or a portion thereof, within the limitations of this section.

C. 44:1-157.1 Rate of payment.

3. (New section) Whenever the Division of Public Welfare in the Department of Human Services provides payment for the funeral and burial or cremation of a recipient of aid to families with dependent children pursuant to P. L. 1959, c. 86 (C. 44:10-1 et seq.), general public assistance pursuant to P. L. 1947, c. 156 (C. 44:8-107 et seq.) or supplemental security income pursuant to P. L. 1973, c. 256 (C. 44:7-85 et seq.), the total allowable payment for funeral and burial or cremation including contributions by others, shall be at least 75% of the average cost for a proper funeral and burial charged by funeral directors in the locality in which the public assistance recipient is buried or cremated.

4. The Commissioner of Human Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to carry out the purposes of this amendatory and supplementary act.

5. This act shall take effect 30 days following enactment.

Approved August 9, 1985.

CHAPTER 283

AN ACT concerning the reenrollment of certain members of the Public Employees' Retirement System and supplementing P. L. 1954, c. 84 (C. 43:15A-1 et seq.)

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

C. 43:15A-57.3 Reactivation of retirement system account.

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, the retirement system shall not reenroll a former veteran member with more than 20 years of service, all or a part of which shall have been judicial service, if the member is employed again by a county of the first class having a population of less than 800,000 according to the latest federal decennial census within four years following the effective date of retirement, but shall reactivate the member's former account, provided that the member repays any retirement allowance received.

2. This act shall take effect immediately and shall be retroactive to April 1, 1980.

Approved August 9, 1985.

CHAPTER 284

A SUPPLEMENT to the "Uniform Anatomical Gift Act," approved September 9, 1969 (P. L. 1969, c. 161; C. 26:6-57 et seq.).

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

C. 26:6-60.1 Anatomical gift ascertainment.

1. A hospital shall, if possible, ascertain from a patient upon admission whether or not the patient has made a gift of all or part of the patient's body pursuant to section 4 of P. L. 1969, c. 161 (C. 26:6-60), and the donee, if any, to whom the gift has been made.

C. 26:6-60.2 Hospital records required.

2. A hospital shall maintain, as part of a patient's permanent record, the information required under this act and any other pertinent information concerning the anatomical gift which will facilitate the discharge of the patient's wishes in the event of the patient's death. Upon the death of a patient who has made an anatomical gift, a hospital shall make every good faith effort to contact, without delay, the donee, if any, to whom the gift has been made.

3. This act shall take effect immediately.

Approved August 12, 1985.

CHAPTER 285

AN ACT appropriating funds from the Public Purpose Buildings Construction Fund for the construction of facilities necessary for the operation of county, municipal or private programs for the mentally ill and the mentally retarded.

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

1. There is appropriated to the Department of Human Services from the "Public Purpose Buildings Construction Fund" created by the "New Jersey Public Purpose Buildings Construction Bond Act of 1980" (P. L. 1980, c. 119), the sum of \$4,500,000.00 for the following construction projects:

Division of Mental Retardation	
Development and improvement of community facilities for the mentally retarded	\$2,500,000.00

Division of Mental Health and Hospitals

Development and improvement of community
residences and facilities for the mentally ill 2,000,000.00

2. There is also appropriated from the proceeds of the sale of the above-mentioned bonds those items as may be necessary to meet any expense incurred by the issuing officials under P. L. 1980, c. 119 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. The Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, of any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The correction shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect.

4. The Director of the Division of Budget and Accounting may approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

5. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item of appropriation to any other item of appropriation within the respective department accounts. The transfer shall be made upon the written approval of the director and of the Subcommittee on Transfers of the Joint Appropriations Committee or its successor.

6. This act shall take effect immediately.

Approved August 12, 1985.

CHAPTER 286

AN ACT providing for the increase of personal needs allowances, supplementing P. L. 1968, c. 413 (C. 30:4D-1 et seq.) and amending P. L. 1973, c. 256.

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

C. 30:4D-6a \$35 monthly personal needs allowance.

1. (New section) Any person who is eligible for medical assistance and health services under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) and 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), who is not eligible for Supplemental Security Income benefits pursuant to 42 U.S.C. § 1382(e)(1)(B), is entitled to a \$35.00 monthly personal needs allowance.

2. Section 3 of P. L. 1973, c. 256 (C. 44:7-87) is amended to read as follows:

C. 44:7-87 Administration of supplementary payments.

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. 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. The assessment shall be made as of January 1, 1974 for fiscal year 1974. In the event that the assessment against welfare boards in any one year exceeds the amount annually transferred to the government for the counties' portion of supplementary payments, the commissioner shall return the excess to the welfare boards in the same proportion as that used by the commissioner in assessing the welfare boards for the fiscal year involved.

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.

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

4. This act shall take effect on the first day of the third month after enactment, except that section 2 of this act shall remain inoperative until the approval of the commissioner's administrative plan by the government.

Approved August 12, 1985.

CHAPTER 287

AN ACT concerning contracts by county and municipal hospitals in certain cases.

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

C. 30:9-87 Joint purchases by health-care facilities.

1. Notwithstanding the provisions of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) to the contrary, a hospital or institution for the aged and disabled operated under the authority of chapter 9 of Title 30 of the Revised Statutes by a county or municipality, or a county-operated facility licensed by the State Department of Health as a long-term care facility, may enter into any contract and make any arrangement with any other such hospital or with any other State, federal or privately owned

hospital, or any medical school, or other health related facility having or using hospital services or facilities for the joint purchase of any material, supply or service from a private nonprofit hospital association.

C. 30:9-88 Public bidding exemption.

2. Any purchase, contract or agreement described in section 1 of this act may be made, negotiated or awarded by the board of managers or the governing body of the facility without public advertising for bids and bidding therefor, except that the board of managers or the governing body of the facility shall pass a resolution supporting the reasons for its action, and immediately after awarding of the contract shall once in a newspaper authorized by law to publish official public notices in the municipality or the county in which the hospital or long-term care facility is situated, publish a public notice with respect to the duration of the contract, to whom it has been awarded, including the name of the primary supplier or manufacturer, the material, supply or service purchased, and the amount of the contract. A copy of the contract shall be provided to the clerk of the municipality or county in which the facility is located and shall be available for public inspection immediately after it has been awarded.

3. This act shall take effect immediately.

Approved August 14, 1985.

CHAPTER 288

AN ACT concerning fire districts, amending N. J. S. 40A:14-70, N. J. S. 40A:14-71, N. J. S. 40A:14-72, N. J. S. 40A:14-79 and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

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

1. N. J. S. 40A:14-70 is amended to read as follows:

Fire district designation; election of commissioners.

40A:14-70. In any municipality not having a paid or part-paid fire department and force, the governing body, upon application of at least 5% of the registered voters or 20 legal voters, whichever is

the greater, by ordinance, shall designate a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district, to consist of five persons, residents therein, and specify the date, time and place for the election of the first board.

The district or each district shall be assigned a number and the commissioners thereof and their successors shall be a body corporate, to be known as "the commissioners of fire district No. in (name of municipality), county of (name of county)." The said body corporate shall have the power to acquire, hold, lease, sell or otherwise convey in its corporate name such real and personal property as the purposes of the corporation shall require. All sales and leases of real and personal property shall be in accordance with the provisions of section 13 or 14, as appropriate, of the "Local Lands and Buildings Law," P. L. 1971, c. 199 (C. 40A:12-13 and 40A:12-14). Said body corporate may adopt and use a corporate seal, sue or be sued and shall have such powers, duties and functions as are usual and necessary for said purposes.

On the date and at the time and place specified for the election of the first board the clerk of the municipality shall conduct the election and shall preside at the meeting until the board shall have been elected.

At the first meeting of a newly elected board of fire commissioners of a district the board shall choose a chairman and fix the place for the annual election. The members of the board shall divide themselves by lot into three classes: the first to consist of two members whose terms shall expire at 12 o'clock noon on the first Tuesday in March of the year following the year in which the first board is elected; the second, two members whose terms shall expire at 12 o'clock noon on the first Tuesday in March of the second year following that year; and the third, one member whose term shall expire at 12 o'clock noon on the first Tuesday in March of the third year following that year. The terms of fire commissioners in each class, other than members of the first board, shall expire at 12 o'clock noon on the first Tuesday in March of the third year following the year in which they were elected.

Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election, at which time a resident of the district shall be elected for the unexpired term.

2. N. J. S. 40A:14-71 is amended to read as follows:

Nominating petitions.

40A:14-71. Candidates for membership on the board shall be nominated by verified petitions. Any such petition shall be in writing, addressed to the municipal clerk or the clerk of the board, as the case may be, stating that the signers thereof are qualified voters and residents in the district and requesting that the name of the candidate be placed on the official ballot. The petition shall state the residence of the candidate and certify his qualification for membership. The candidate's consent to his nomination shall be annexed to the petition and shall constitute his agreement to serve in the event of his election. The petition shall contain the name of only one candidate, but several petitions may nominate the same person. Each petition shall be signed by not less than 10 qualified voters and shall be filed at least 28 days before the date of the election.

Any form of a petition of nomination which is provided to candidates by the Secretary of State, the county clerk, or the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of 'The New Jersey Campaign Contributions and Expenditures Reporting Act,' P. L. 1973, c. 83 (C. 19:44A-1 et seq.). For further information please call (insert telephone number of the Election Law Enforcement Commission)."

If a petition is found to be defective, either in form or substance, the municipal clerk or the clerk of the board, as the case may be, shall forthwith notify the candidate to cause it to be corrected before the petition is given consideration.

3. N. J. S. 40A:14-72 is amended to read as follows:

Annual election.

40A:14-72. An election shall be held annually on the third Saturday in February in each established fire district for the election of members of the board according to the expiration of terms. The initial election for a newly created fire district may take place on another date as a governing body may specify under N. J. S. 40A:14-70, but the annual election thereafter shall be held on the third Saturday in February. The place of the election shall be determined by the board and a notice thereof, and of the closing date for the filing with the clerk of the board of petitions of nomination for membership on the board, shall be published at least once

in a newspaper circulating in the district, at least six weeks prior to the date fixed for the election.

The legal voters thereat shall determine the amount of money to be raised for the ensuing year and determine such other matters as may be required.

4. N. J. S. 40A:14-79 is amended to read as follows:

Tax assessment.

40A:14-79. Upon proper certification pursuant to section 9 of P. L. 1979, c. 453 (C. 40A:14-78.5), the assessor of the municipality in which the fire district is situate shall assess the amount to be raised by taxation to support the district budget against the taxable property therein, in the same manner as municipal taxes are assessed and the said amount shall be assessed, levied and collected at the same time and in the same manner as other municipal taxes.

The collector or treasurer of the municipality in which said district is situate shall pay over all moneys so assessed to the treasurer or custodian of funds of said fire district as follows: on or before April 1, an amount equaling 21.25% of all moneys so assessed; on or before July 1, an amount equaling 22.5% of all moneys so assessed; on or before October 1, an amount equaling 25% of all moneys so assessed; and on or before December 31, an amount equaling the difference between the total of all moneys so assessed and the total amount of such moneys previously paid over, to be held and expended for the purpose of providing and maintaining means for extinguishing fires in such district.

Notwithstanding anything herein to the contrary, the municipal governing body may authorize, in the cash management plan adopted by it pursuant to N. J. S. 40A:5-14, a schedule of payments of fire district moneys by which an amount greater than required on any of the first three payment dates cited herein may be paid over. The municipal governing body and board of fire commissioners may, by concurrent resolution, adopt a schedule of payments of fire district moneys by which an amount less than required on any of the first three payment dates cited herein may be paid over. Such resolution shall be included in the cash management plan adopted by the municipal governing body pursuant to N. J. S. 40A:5-14.

The commissioners may also pay back, or cause to be paid back to such municipality, any funds or any part thereof paid to the treasurer or custodian of funds of such fire district by the collector or treasurer of the municipality, representing taxes levied for fire

district purposes but not actually collected in cash by said collector or treasurer.

C. 40A:14-78.9 Budget item transfers.

5. (New section) a. Whenever it shall become necessary during the last two months of the fiscal year to expend amounts in excess of those appropriations specified in the various line items of the operating appropriations section of the annual budget and there shall be excess appropriations in other line items of the operating appropriations section, the board of fire commissioners of the fire district may, by resolution setting forth the facts, adopted by not less than $\frac{2}{3}$ vote of the full membership thereof, transfer the amount of the excess to those appropriations deemed to be insufficient.

b. No transfers may be made under this section from appropriations for:

- (1) Contingent expenses,
- (2) Deferred charges,
- (3) Cash deficit of preceding year,
- (4) Down payments,
- (5) Capital improvements,
- (6) Interest and redemption charges.

C. 40A:14-78.10 Reserve item transfers.

6. (New section) a. If, during the first two months of any fiscal year, the amount of any appropriation reserve in any line item of the operating appropriations section of the budget for the immediately preceding fiscal year is insufficient to pay the claims authorized or incurred during the preceding year, and there shall be an excess in any appropriation reserve in another line item of the operating appropriations section, the board of fire commissioners of any fire district may, by resolution adopted by not less than a $\frac{2}{3}$ vote of the full membership thereof, transfer the amount of the excess to the appropriation reserve deemed to be insufficient or for which no reserve was provided.

b. No transfers may be made under this section from appropriation reserves for:

- (1) Contingent expenses,
- (2) Down payments,
- (3) Capital improvements.

C. 40A:14-78.11 Emergency appropriations.

7. (New section) A fire district may make emergency appropriations, after the adoption of a budget approved by the Di-

rector of the Division of Local Government Services pursuant to P. L. 1983, c. 313 (C. 40A:5A-1 et seq.), for a purpose which is not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. This appropriation shall be made only to meet a pressing need for public expenditure to protect or promote the public health, safety, morals or welfare.

C. 40A:14-78.12 3% limit.

8. (New section) An emergency appropriation, together with all prior emergency appropriations made during the same year, shall not exceed 3% of the total of current operating appropriations made in the budget adopted for that year.

C. 40A:14-78.13 Emergency appropriation resolution.

9. (New section) Emergency appropriations shall be made as follows:

a. The board of fire commissioners of any fire district shall, by resolution adopted by not less than $\frac{2}{3}$ of its full membership, declare that an emergency exists requiring a supplementary appropriation.

b. The resolution shall be in the form and content to be prescribed by the municipal governing body and shall set out the nature of the emergency in full.

c. A copy of the resolution shall be filed immediately with the governing body.

d. The resolution shall not take effect until the municipal governing body shall by a vote of not less than $\frac{2}{3}$ of its full membership approve the emergency appropriation and certify its approval to the fire district.

C. 40A:14-78.14 Deferred charge.

10. (New section) The total amount of all emergency appropriations shall be provided in full by the fire district as a deferred charge in the budget of the next succeeding fiscal year. In the event that the budget is not approved by the voters, that deferred charge shall remain in the budget for the fire district to be adopted by the municipal governing body pursuant to the law.

C. 40A:14-78.15 Financing of emergency appropriation.

11. (New section) A fire district may finance any emergency appropriation from the district's available surplus funds, or may borrow money for a period of time not in excess of one year and execute the necessary evidences of indebtedness.

C. 40A:14-78.16 Fiscal year.

12. (New section) Commencing January 1, 1986 all fire district fiscal years shall begin on January 1 and end December 31. Any fire district with a fiscal year commencing at any time during 1985, but ending subsequent to December 31, 1985, shall adopt a budget pursuant to law which ends December 31, 1985, notwithstanding that such requirement results in a fiscal year of less than 12 full calendar months of duration. Any budget heretofore adopted for a fiscal year commencing at any time during 1985 but ending subsequent to December 31, 1985 shall be amended such that the fiscal year to which it pertains shall terminate on December 31, 1985, notwithstanding that such action results in a fiscal year of less than 12 full calendar months.

C. 40A:14-78.17 Temporary budget.

13. (New section) A fire district may and, if any contracts, commitments or payments are to be made prior to the adoption of the budget, shall, by resolution adopted prior to January 15, adopt a temporary budget to make appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget.

The total of the appropriations so made shall not exceed 14% of the total of the appropriations made for all purposes in the budget for the preceding fiscal year, excluding, in both instances, appropriations made for interest and debt redemption charges and capital improvements.

Nothing herein contained shall prevent or relieve the fire district from making appropriations for all interest and debt redemption charges maturing during the fiscal year, at any time prior to the date of the adoption of the budget.

14. This act shall take effect immediately, except that sections 2 and 3 shall take effect January 1, 1985.

Approved August 14, 1985.

CHAPTER 289

AN ACT concerning burglar and fire alarm systems and amending and supplementing P. L. 1962, c. 162.

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

1. Section 18 of P. L. 1962, c. 162 (C. 45:5A-18) is amended to read as follows:

C. 45:5A-18 Electrical permit exemptions.

18. Electrical work or construction which is performed on the following facilities or which is by or for the following agencies shall not be included within the business of electrical contracting so as to require the securing of a business permit under this act:

(a) Minor repair work such as the replacement of lamps and fuses.

(b) The connection of portable electrical appliances to suitable permanently installed receptacles.

(c) The testing, servicing or repairing of electrical equipment or apparatus.

(d) Electrical work in mines, on ships, railway cars, elevators, escalators or automotive equipment.

(e) Municipal plants or any public utility as defined in section 48:2-13 of the Revised Statutes, organized for the purpose of constructing, maintaining and operating works for the generation, supplying, transmission and distribution of electricity for electric light, heat, or power.

(f) A public utility subject to regulation, supervision or control by a federal regulatory body, or a public utility operating under the authority granted by the State of New Jersey, and engaged in the furnishing of communication or signal service, or both, to a public utility, or to the public, as an integral part of a communication or signal system, and any agency associated or affiliated with any public utility and engaged in research and development in the communications field.

(g) A railway utility in the exercise of its functions as a utility and located in or on buildings or premises used exclusively by such an agency.

(h) Commercial radio and television transmission equipment.

(i) Construction by any branch of the federal government.

(j) Any work with a potential of less than 10 volts.

(k) Repair, manufacturing and maintenance work on premises occupied by a firm or corporation, and installation work on premises occupied by a firm or corporation and performed by a regular employee who is a qualified journeyman electrician.

(l) Installation, repair or maintenance performed by regular employees of the State or of a municipality, county, or school

district on the premises or property owned or occupied by the State, a municipality, county, or school district.

(m) The maintaining, installing or connecting of automatic oil, gas or coal burning equipment, gasoline or diesel oil dispensing equipment and the lighting in connection therewith to a supply of adequate size at the load side of the distribution board.

(n) Work performed by a person on a dwelling that is occupied solely as a residence for himself or for a member or members of his immediate family.

(o) Any work performed by an alarm business with a potential of more than 10 volts and not more than 30 volts, involving the installation, servicing, or maintenance of a burglar alarm or a fire alarm, as those terms are defined by section 2 of this amendatory and supplementary act. Nothing herein shall be deemed to exempt work covered by this subsection from inspection required by the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119 et seq.) or regulations adopted pursuant thereto.

The board may also exempt from the business permit provisions of this act such other electrical activities of like character which in the board's opinion warrant exclusion from the provisions of this act.

C. 45:5A-18.1 Definitions.

2. (New section) As used in this amendatory and supplementary act:

a. "Alarm business" means a partnership, corporation or other business entity engaged in the installation, servicing, or maintenance of burglar or fire alarm systems, or the monitoring or responding to alarm signals when provided in conjunction therewith. "Installation" includes the survey of a premises, the design and preparation of the specifications for the equipment or system to be installed pursuant to a survey, the installation of the equipment or system, or the demonstration of the equipment or system after the installation is completed, but does not include any survey, design or preparation of specifications for equipment or for a system which is prepared by an engineer licensed pursuant to the provisions of P. L. 1938, c. 342 (C. 45:8-27 et seq.), or an architect licensed pursuant to the provisions of R. S. 45:3-1 et seq., if the survey, design, or preparation of specifications is part of a design for construction of a new building or premises or a renovation of an existing building or premises, which renovation includes com-

ponents other than the installation of a burglar or fire alarm system.

b. "Burglar alarm" means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm condition and providing a warning of intrusion, which is designed to discourage crime.

c. "Fire alarm" means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm condition and provides a warning of the presence of smoke or fire; except that "fire alarm" does not mean a system whose primary purpose is telecommunications with energy control, the monitoring of the interior environment being an incidental feature thereto.

3. This act shall take effect immediately.

Approved August 14, 1985.

CHAPTER 290

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, 1985 and regulating the disbursement thereof," approved June 29, 1984 (P. L. 1984, c. 58).

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

1. In addition to the sums appropriated under P. L. 1984, c. 58, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID	
DEPARTMENT OF ENVIRONMENTAL PROTECTION	
Community Development and Environmental Management	
44 Hazardous and Toxic Pollution Control—State Aid	
19-4815 Spill Prevention, Response and	
Site Cleanup	\$90,000

State Aid:

Union county/environmental emergency management	(\$45,000)
Middlesex county/environmental emergency management	(45,000)

2. Monies made available by this appropriation shall be used by the governing bodies of Union and Middlesex counties to aid community organizations in the preparation for environmental emergencies, and the execution of environmental emergency management plans, related to the manufacture, processing, treatment, storage and transport of hazardous materials.

3. This act shall take effect immediately.

Approved August 14, 1985.

CHAPTER 291

AN ACT concerning certain benefits for certain senior citizens and disabled residents and amending P. L. 1975, c. 194, P. L. 1979, c. 197 and P. L. 1981, c. 210.

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

1. Section 2 of P. L. 1975, c. 194 (C. 30:4D-21) is amended to read as follows:

C. 30:4D-21 Pharmaceutical assistance.

2. Any resident of this State who is either a recipient of disability insurance benefits under Title II of the federal Social Security Act (42 U. S. C. § 401 et seq.) or 65 years of age and over and whose annual income is less than \$13,250.00 if single or, if married, whose annual income combined with that of his spouse is less than \$16,250.00, shall be eligible for "Pharmaceutical Assistance to the Aged and Disabled" if he is not otherwise qualified for assistance under P. L. 1968, c. 413 (C. 30:4D-1 et seq.).

2. Section 3 of P. L. 1975, c. 194 (C. 30:4D-22) is amended to read as follows:



C. 30:4D-22 §2 copayment; restrictions; definitions.

3. The program of "Pharmaceutical Assistance to the Aged and Disabled" shall consist of payments to pharmacies for the reasonable cost of prescription drugs of eligible persons which exceed a \$2.00 copayment. Said copayment shall be paid in full by each eligible person to the pharmacist at the time of each purchase of prescription drugs, and shall not be waived, discounted or rebated in whole or in part.

The commissioner may restrict the day supply of initial prescriptions to less than a 30 day supply in order to reduce waste and reduce inappropriate drug utilization. Subsequently, the commissioner may limit prescription drugs used in the treatment of acute care medical conditions to an amount not to exceed a 30 day supply. The commissioner may allow up to a 60 day supply or 100 unit doses, whichever is greater, of prescription drugs used in the treatment of chronic maintenance conditions.

Whenever any interchangeable drug product contained in the latest list approved and published by the Drug Utilization Review Council is available for the prescription written, an eligible person shall either:

- (1) Purchase an interchangeable drug product which is equal to or less than the maximum allowable cost, at the \$2.00 copayment; or
- (2) Purchase the prescribed drug product which is higher in cost than the maximum allowable cost and pay the difference between the two, in addition to the \$2.00 copayment, unless the prescriber specifically indicates that substitution is not permissible, in which case an eligible person may purchase the prescribed drug product at the \$2.00 copayment.

For purposes of this act:

a. "Prescription drugs" means all legend drugs, including any interchangeable drug products contained in the latest list approved and published by the Drug Utilization Review Council in conformance with the provisions of the "Prescription Drug Price and Quality Stabilization Act" (P. L. 1977, c. 240; C. 24:6E-1 et seq.), diabetic testing materials, and insulin, insulin syringes and insulin needles;

b. "Reasonable cost" means the maximum allowable cost of prescription drugs and a dispensing fee, as determined by the commissioner. In the case of diabetic testing materials, the maximum allowable cost is the manufacturer's suggested retail selling price or the pharmacy's usual over-the-counter price charged to other persons in the community, whichever is less;

c. "Resident" means one legally domiciled within the State for a period of 30 days immediately preceding the date of application for inclusion in the program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile. The burden of establishing legal domicile within the State is upon the applicant;

d. "Diabetic testing materials" means blood glucose reagent strips which can be visually read, urine monitoring strips, tapes and tablets and bloodletting devices and lancets, but shall not include electronically monitored devices.

3. Section 2 of of P. L. 1979, c. 197 (C. 48:2-29.16) is amended to read as follows:

C. 48:2-29.16 Eligibility for Lifeline Credit Program.

2. Any residential electric or gas customer who on July 1 of any year or at any time during the succeeding six months is: a. enrolled in, found eligible for, or, except for the provisions of section 4 of P. L. 1975, c. 194 (C. 30:4D-23), would be eligible for benefits under the program of "Pharmaceutical Assistance to the Aged and Disabled," established pursuant to P. L. 1975, c. 194 (C. 30:4D-20 et seq.), as amended and supplemented; or b. receiving or is eligible to receive benefits under the program of Supplemental Security Income (P. L. 1973, c. 256, C. 44:7-85 et seq.); or c. receiving disability benefits pursuant to the federal Social Security Act (42 U. S. C. § 416(i)) and meets the income and residency requirements of the "Pharmaceutical Assistance to the Aged and Disabled" program, shall be eligible for the "Lifeline Credit Program" established by this act.

The Commissioner of the Department of Human Services shall establish a schedule of eligible customers who meet such qualifications.

4. Section 3 of P. L. 1981, c. 210 (C. 48:2-29.32) is amended to read as follows:

C. 48:2-29.32 Eligibility for Tenants' Lifeline Assistance Program.

3. Any residential tenant not receiving an individual electric or gas utility bill who at any time between July 1 and December 31, 1981, or at any time between July 1 and December 31 of any year thereafter, is: a. enrolled in, found eligible for, or, except for the provisions of section 4 of P. L. 1975, c. 194 (C. 30:4D-23), would be

eligible for benefits under the program of "Pharmaceutical Assistance to the Aged and Disabled," established pursuant to P. L. 1975, c. 194 (C. 30:4D-20 et seq.), as amended and supplemented; or b. receiving or is eligible to receive benefits under the program of Supplemental Security Income (P. L. 1973, c. 256, C. 44:7-85 et seq.); or c. receiving disability benefits pursuant to the federal Social Security Act (42 U. S. C. § 416 (i)) and meets the income and residency requirements of the "Pharmaceutical Assistance to the Aged and Disabled" program, shall be eligible for the "Tenants' Lifeline Assistance Program." The commissioner shall establish a schedule of eligible residential tenants who meet such qualifications. For the purposes of this act, "residential tenant" means a person renting or leasing real property, including a mobile home park site, as his principal residence, including a net lease residential tenant, as well as a person who is a resident shareholder in a nonprofit residential cooperative or mutual housing corporation, both defined pursuant to P. L. 1977, c. 241 (C. 54:4-3.80 et seq.), or an owner of a condominium as such is defined pursuant to P. L. 1963, c. 168 (C. 46:8A-1 et seq.) and P. L. 1969, c. 257 (C. 46:8B-1 et seq.).

5. This act shall take effect August 1, 1985, but the Division of Medical Assistance and Health Services shall accept and process applications prior to that date.

Approved August 14, 1985.

CHAPTER 292

AN ACT providing for the increase of personal needs allowances and supplementing chapter 4 of Title 30 of the Revised Statutes.

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

C. 30:4-68.2 §35 monthly personal needs allowance.

1. A person who is a resident of an institution as defined by R. S. 30:4-23 who is not eligible for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P. L. 1968, c. 413 (C. 30:4D-1 et seq.), but who is a recipient of other State assistance, shall be entitled to a \$35.00 monthly personal needs allowance.

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

3. This act shall take effect 60 days after enactment.

Approved August 14, 1985.

CHAPTER 293

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, 1985 and regulating the disbursement thereof," approved June 29, 1984 (P. L. 1984, c. 58).

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

1. In addition to the sums appropriated under P. L. 1984, c. 58, there is appropriated from the General Fund the following sum for the purpose specified:

STATE AID

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

43 Environmental Quality—State Aid

07-4850	Water Monitoring and Planning	\$95,000
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State Aid:

To assist the Waterford Township Municipal Utility Authority in the implementation of certain recommendations contained in the Rutgers OST Task Force Report No. 10 (Final) April 11, 1985 concerning the reduction of the concentrations of nitrate discharges into the groundwater supply. . (\$95,000)

This grant is contingent upon the township of Waterford entering into a service agreement with the borough of Chesilhurst for the provision of sewerage services.

2. This act shall take effect immediately.

Approved August 14, 1985.

CHAPTER 294

AN ACT concerning the taxation of insurance companies and amending P. L. 1945, c. 132.

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

1. Section 6 of P. L. 1945, c. 132 (C. 54:18A-6) is amended to read as follows:

C. 54:18A-6 Taxable premium calculation.

6. In the event that the taxable premiums collected by any company, as specified in sections 2 and 3 of this act, and all of its affiliates as defined in the chapter entitled "Insurance Holding Company Systems," P. L. 1970, c. 22 (C. 17:27A-1 et seq.), during any year ending December thirty-first, exceed twelve and one-half percentum (12½%) of the total premiums collected by the company and all of its affiliates during the same year on all policies and contracts of insurance, whenever and wherever issued, the taxable premiums of such company shall not exceed a sum equal to twelve and one-half per centum (12½%) of such company's total premiums collected during the same year on all policies and contracts of insurance, whenever and wherever issued, calculated as specified in sections 4 and 5 of this act; provided, however, a company to which section 2 of this act (C. 54:18A-2) applies shall in no event be deemed to be an affiliate of a company to which section 3 of this act (C. 54:18A-3) applies and provided, further, that as to any company licensed in this State prior to January 1, 1984, the taxable premiums of that company shall be calculated without regard to the premiums collected by any affiliate.

2. This act shall take effect immediately.

Approved August 15, 1985.

CHAPTER 295

AN ACT concerning additional fire services for certain municipalities, supplementing P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.), and making an appropriation therefor.

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

C. 52:27D-118.17 Definitions.

1. As used in this act:

a. "Emergency equipment" means any item used for the purpose of providing life safety and shall include but shall not be limited to boots, helmets, self-contained breathing apparatuses, fire hoses, extrication tools, insurance, maintenance of and repairs to fire apparatus and vehicles, utility costs for buildings, training, and the cost of hazardous materials units. It shall not include the purchase of any vehicle or building.

b. "Governing fire organization" means a municipality, fire district, fire company or fire department responsible for providing fire protection in any given municipality.

C. 52:27D-118.18 Additional appropriations.

2. In addition to the amounts appropriated in any State fiscal year beginning after June 30, 1985 pursuant to the provisions of P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.) and P. L. 1985, c. 170 (C. 52:27D-118.11 et seq.), there shall be appropriated such funds as are required for providing additional fire services in certain municipalities as follows:

a. 65% of any additional amount appropriated for additional fire services shall be apportioned to municipalities that both maintain paid or part-paid fire departments and qualify for aid pursuant to P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.) to provide a uniform percentage of increase in the amount apportioned to these municipalities. In order to receive funds under this subsection, a municipality shall provide matching funds from other sources equal to 25% of the amount provided under this subsection.

b. (1) The remaining amount appropriated for additional fire services shall be available to provide assistance to municipalities that qualify for aid pursuant to P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.) but are provided with fire protection by a governing fire organization made up exclusively of volunteers and to provide assistance to municipalities which are not qualified for aid pursuant to P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.), except that a municipality that is ineligible to receive a revenue sharing distribution pursuant to P. L. 1976, c. 73 (C. 54A:10-1 et seq.) from the State in the year 1985 shall be ineligible for assistance under this subsection. Each municipality eligible to receive assistance under this subsection shall receive an amount not to exceed that portion of the total amount available to all such municipalities as the municipality's population bears to the total population of all such municipalities according to the most recent federal decennial census.

(2) In order to receive funds under this subsection, a municipality that maintains a paid or part-paid fire department and qualifies for aid pursuant to P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.) shall provide funds from other sources equal to 25% of the amount provided under this subsection; a municipality that maintains a paid or part-paid fire department and does not qualify for aid pursuant to P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.) shall provide funds from other sources at least equal to the amount provided under this subsection; and a municipality that is provided with fire protection by a governing fire organization made up exclusively of volunteers shall provide funds from other sources equal to 10% of the amount provided under this subsection.

c. The amounts apportioned under subsections a. and b. of this section shall be used by the municipalities to which they are appropriated as follows:

(1) A municipality that maintains a paid fire department shall use the amount exclusively to employ a member or members holding the rank of firefighter or equivalent title, in addition to the number of such members employed by the municipality and regularly assigned as active uniformed firefighters on January 31, 1985.

(2) A municipality that is provided with fire protection by a governing fire organization made up exclusively of volunteers shall use the amount exclusively to purchase emergency equipment. As a condition of receiving assistance under this act, a municipality shall fund governing fire organizations that are made up exclusively of volunteers and that provide the municipality with fire protection in the same amount as it funded them on January 31, 1985, except that if a municipality does not fund the governing fire organization it shall not be required to do so in order to receive assistance under this act. The municipality shall distribute the funds for purchasing emergency equipment that it receives under this section to the governing fire organizations that provide fire protection in the municipality, based upon the proportion of the municipal population served by each governing fire organization.

(3) A municipality or fire district that maintains a part-paid fire department shall use the amount according to the provisions of paragraph (1), paragraph (2), or a combination of paragraphs (1) and (2) of this subsection, as it deems to be appropriate.

(4) For any State fiscal year during which a municipality subject to the provisions of Title 11 of the Revised Statutes is unable to promulgate or implement an eligibility list for the employment of

firefighters pursuant to this act as the result of the decision of any State or federal court, department or agency, that municipality may use the moneys apportioned thereto to defray the costs of overtime service on the part of currently employed full-time active uniformed firefighters.

C. 52:27D-118.19 Discretionary fund.

3. In the event that any funds remain undistributed after all eligible municipalities or fire districts have had an opportunity to enter into a contract pursuant to this supplementary act, there shall be established a discretionary fund, and eligible municipalities or fire districts may make application for such funds as still remain undistributed as determined by the director. Any funds paid pursuant to this section shall be for the purposes of augmenting or upgrading fire services in the State.

C. 52:27D-118.20 Indicia of State support.

4. Each firefighter employed under this act shall wear the uniform of the municipality or fire district and a shoulder patch of a kind approved by the Director of the Division of Local Government Services, containing an insignia indicative of the State's support of the program.

C. 52:27D-118.21 Regulations.

5. In addition to the other powers and duties expressed in P. L. 1979, c. 118 (C. 52:27D-118.1 et seq.), the Director of the Division of Local Government Services shall adopt specific regulations, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to govern provision of assistance under this act to qualifying and nonqualifying municipalities or fire districts for additional fire services. In addition to other matters that the director may find appropriate, the regulations shall:

a. Require the municipality or fire district to enter into a contract in a form prescribed by the director under which the municipality or fire district shall agree to provide its share of the cost of employing additional firefighters, if appropriate, and further agrees to maintain its fire department or to fund governing fire organizations that provide it with fire protection, whichever is appropriate, at the level maintained as of January 31, 1985 as a condition of continued assistance;

b. Identify the particular costs of employing additional firefighters, generally limited to training, salary, benefits and equipment (exclusive of vehicles), and the particular costs of purchasing emergency equipment, for which assistance may be provided;

c. Contain the design of the shoulder patch that additional firefighters are required to wear under section 4 of this act.

C. 52:27D-118.22 Anticipation of State aid.

6. The funds that a qualifying municipality or fire district acquires pursuant to this act shall be appropriated by the municipality or fire district in compliance with the "Local Budget Law" (N. J. S. 40A:4-1 et seq.). Notwithstanding any provisions of the "Local Budget Law," any municipality or fire district qualifying for State aid under the provisions of this act may anticipate the receipt of the amount of State aid certified to it by the director and may file such amendments or corrections in its local budget as may be required to properly reflect the amount certified.

C. 52:27D-118.23 Restriction on fund use.

7. Moneys appropriated pursuant to this act shall not be used to defray administrative expenses.

8. There is appropriated from the General Fund to the Department of Community Affairs the amount of \$8 million to carry out the provisions of this act.

9. This act shall take effect immediately.

Approved August 15, 1985.

CHAPTER 296

AN ACT establishing a Self-Help Clearinghouse and making an appropriation therefor.

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

C. 30:9B-1 Findings, declarations.

1. The Legislature finds and declares that: there is a great need to foster innovative, cost-effective social and health services; self-help and mutual aid groups are based on a long-standing and deeply rooted American tradition of local, volunteer initiatives; there is increasing scientific evidence that self-help activities have long-term health benefits; the President's Commission on Mental Health has recommended the establishment of self-help clearing-

houses to promote the development, coordination and public awareness of self-help groups; and the creation of a Statewide Self-Help Clearinghouse would be an invaluable resource for the citizens of this State.

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

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

C. 30:9B-3 Guidelines; funding.

3. a. The commissioner shall prepare guidelines for the Self-Help Clearinghouse.

b. The commissioner shall solicit proposals from nonprofit organizations interested in establishing a Statewide Self-Help Clearinghouse, review the proposals, and approve and fund within the limits of moneys allocated to the department the proposal which best meets the objectives of the program.

c. The Self-Help Clearinghouse shall assist in the development of self-help groups throughout the State by providing technical assistance to communities including, but not limited to, consultation, training and technical assistance; collect, integrate and make available self-help information and resource material; and publish and distribute a Statewide directory of self-help groups.

C. 30:9B-4 Rules, regulations.

4. Subject to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), the commissioner shall adopt the rules and regulations necessary to effectuate the purposes of this act.

5. There is appropriated \$250,000.00 from the General Fund to the Department of Human Services to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved August 15, 1985.

CHAPTER 297

AN ACT concerning State aid to libraries, supplementing chapter 74 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:74-3.2 State aid to libraries.

1. The Division of the State Library, Archives and History in the Department of Education, upon the approval of the Commissioner of the Department of Education and the State Board of Education, shall annually, within the limitations of amounts appropriated by the Legislature, distribute funds pursuant to rules and regulations adopted according to N. J. S. 18A:74-1 et seq.:

a. To any municipality which receives State aid pursuant to P. L. 1978, c. 14 (C. 52:27D-178 et seq.) and supports, in whole or in part, a municipal library which maintains one or more branch libraries, to assist solely in maintaining, operating and improving those branch libraries to meet community needs;

b. To any county or municipality which supports, in whole or in part, library services from county or municipal tax revenues, to evaluate and develop the collections of any library receiving such funds; and

c. To any library in the State which houses and maintains a collection of historical or special interest, to be used to house, protect, preserve, repair, restore and maintain the collection.

Funds allocated pursuant to this section shall be distributed as grants to qualifying applicants, based on competitive criteria and a selection process established by the Division of the State Library, Archives and History and approved by the commissioner and State Board of Education. No rule or regulation shall be adopted nor any application approved nor grant made under this section which creates or implies, by its nature or purpose, a continuing assistance grant or entitlement of indefinite length.

C. 18A:74-3.3 Funds for audiovisual services.

2. The Division of the State Library, Archives and History, upon the approval of the Commissioner of the Department of Education and the State Board of Education, shall annually, within the limitations of amounts appropriated by the Legislature, distribute funds pursuant to rules and regulations adopted according to N. J. S. 18A:74-1 et seq., for audiovisual public library services.

C. 18A:74-3.4 Services for institutionalized persons.

3. The Division of the State Library, Archives and History, upon the approval of the Commissioner of the Department of Education and the State Board of Education, shall annually, within the limitations of amounts appropriated by the Legisla-

ture, distribute funds pursuant to rules and regulations adopted according to N. J. S. 18A:74-1 et seq., for library services to persons institutionalized in health, mental health, mental retardation, veterans', residential, correctional and other similar facilities which are operated by or under contract to the State or to county or municipal governments.

4. There is appropriated \$200,000.00 to the Department of Education from the General Fund to implement the provisions of sections 2 and 3 of this act.

5. This act shall take effect immediately.

Approved August 23, 1985.

CHAPTER 298

AN ACT establishing the office of the public guardian for elderly adults and making an appropriation therefor.

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

C. 52:27G-20 Short title.

1. This act shall be known and may be cited as the "Public Guardian for Elderly Adults Act."

C. 52:27G-21 Findings, declarations.

2. The Legislature finds and declares that private guardianship for an elderly adult may not be feasible where there are no willing and responsible family members or friends to serve as guardian, that this act establishes a public guardianship program for elderly adults for the purpose of furnishing guardianship services to elderly persons at reduced or no cost when appropriate, and that this act intends to promote the general welfare by establishing a public guardianship system that permits elderly persons to determinatively participate as fully as possible in all decisions that affect them.

C. 52:27G-22 Definitions.

3. As used in this act:

- a. "Court" means the Superior Court.
- b. "Elderly adult" means a person aged 60 years or older.

C. 52:27G-23 Office of Public Guardian for Elderly Adults.

4. There is created in the Executive Branch of the State Government the Office of the Public Guardian for Elderly Adults. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Office of the Public Guardian for Elderly Adults is allocated to the Department of Community Affairs, but notwithstanding this allocation, the office shall be independent of any supervision or control by the department or any board or officer thereof.

C. 52:27G-24 Appointment of public guardian.

5. The administrator and chief executive officer of the office is the public guardian, who shall be a person qualified by training and experience to perform the duties of the office. The public guardian shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the public guardian's successor. The public guardian shall devote his entire time to the duties of the position and shall receive a salary as determined by law. Any vacancy occurring in the position of the public guardian shall be filled in the same manner as the original appointment; except that if the public guardian dies, resigns, becomes ineligible to serve for any reason, or is removed from office, the Governor shall appoint an acting public guardian, who shall serve until the appointment and qualification of the public guardian's successor, but in no event longer than six months from the occurrence of the vacancy, and who shall exercise during this period all the powers and duties of the public guardian pursuant to the provisions of this act.

C. 52:27G-25 Powers; duties.

6. The public guardian, as administrator and chief executive officer:

a. Shall administer and organize the work of the office and establish therein any administrative divisions he may deem necessary, proper and expedient. The public guardian may delegate to subordinate officers or employees of the office any of his powers as he may deem desirable to be exercised under his supervision and control;

b. Shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of this act;

c. Shall appoint and remove stenographic, clerical and other secretarial assistants as may be required for the proper conduct of the office, subject to the provisions of Title 11 of the Revised Statutes, and other applicable statutes, and within the limits of funds appropriated or otherwise made available therefor. In addition, and within funding limits, the public guardian may appoint, retain or employ, without regard to the provisions of Title 11 or any other statutes, any officers, financial managers, social workers or other professionally qualified personnel on a contract basis or otherwise as the public guardian deems necessary;

d. Shall maintain suitable headquarters for the office and other quarters as the public guardian may deem necessary to the proper functioning of the office;

e. May accept the services of volunteer workers or consultants at no compensation or at nominal or token compensation and reimburse them for their proper and necessary expenses;

f. Shall keep and maintain proper financial and statistical records concerning all cases in which the public guardian provides guardianship or conservatorship services, provided that the privacy and confidentiality of these records for each ward are preserved;

g. May serve as guardian and conservator or either of these, after appointment by a court pursuant to the provisions of Title 3B of the New Jersey Statutes, and with the same powers and duties of a private guardian or conservator, except as otherwise limited by law or court order;

h. May intervene in any guardianship or conservatorship proceeding involving a ward, by appropriate motion by the court, if the public guardian or the court deems the intervention to be justified because an appointed guardian or conservator is not fulfilling his duties, the estate is subject to disproportionate waste because of the costs of the guardianship or conservatorship, or the best interests of the ward require intervention;

i. Shall perform any other function which may be prescribed by this act or by any other law.

C. 52:27C-26 Eligibility for services; petition for appointment.

7. Any elderly person residing in the State who may be found by a court to require a guardian or conservator, and who does not have a willing and responsible family member or friend to

serve as guardian is eligible for the services of the public guardian. However, the public guardian shall not be appointed for the sole reason that the proposed ward relies upon treatment by spiritual means through prayer alone in lieu of medical treatment, in accordance with the ward's religious tenets and practices.

In addition to the classes of persons entitled pursuant to Title 3B of the New Jersey Statutes, a county welfare agency, the Ombudsman for the Institutionalized Elderly, or any other agency, public or private, having a responsibility towards the eligible elderly person, may petition the court to have the public guardian appointed as guardian or conservator for the eligible elderly person with the powers and duties ordinarily conferred by law on guardians and conservators or for certain limited purposes described in the petition. If the petition requests that only limited powers be granted, the court shall incorporate these limitations into its order of appointment to the extent it deems appropriate. The court shall ensure beyond a reasonable doubt that the petition is not the product of mistake, fraud, or duress. The filing of the petition will not be the basis for any inference concerning the competence of the petitioner or for any loss of civil rights or benefits.

C. 52:27G-27 Charging of costs.

8. a. If a public guardian is appointed guardian or conservator for an eligible elderly person, the administrative costs of the public guardian's services and the costs incurred in the appointment procedure will not be charged against the income or the estate of the person, unless the court determines at any time that the person is financially able to pay all or part of these costs.

b. The ability of the income or estate of the person to pay for administrative costs of a public guardian or costs incurred in the appointment procedure will be measured according to the person's financial ability to engage and compensate a private guardian. The ability is a variable, dependent on the nature, extent, and liquidity of assets; the disposable net income of the person; the nature of the guardianship or conservatorship; the type, duration, and the complexity of the services required; and any other foreseeable expenses.

C. 52:27G-28 Consideration of ward's beliefs.

9. The public guardian shall consider the religious and ethical beliefs of the ward when making decisions on the ward's behalf.

The public guardian shall consider nonmedical remedial treatment in accordance with a recognized method of healing when this choice would be consistent with the beliefs held by the ward while competent.

C. 52:27G-29 Grants of authority.

10. a. If it is determined that the public guardian should be appointed for a proposed ward, the court shall enter an order that makes findings of fact on the basis of clear, unequivocal, and convincing evidence supporting each grant of authority to the public guardian and that:

(1) Establishes whether the public guardian has authority over the person, or the property, or both person and property, of the ward;

(2) Establishes whether, and to what extent, the authority over person or property or both is partial; and

(3) Sets the term of appointment.

b. No grant of authority to the public guardian will be more than the least restrictive alternative warranted under the facts, and the public guardian shall employ the form of assistance that least interferes with the capacity of a ward to act in his own behalf.

c. There will be no liability by physicians for failure to obtain consent from a ward or proposed ward of the public guardian in an emergency that threatens death or serious bodily harm.

C. 52:27G-30 Discharge of authority.

11. The public guardian may be discharged by a court with respect to any of the authority granted over each ward upon petition of the elderly person or any interested person or upon the court's own motion, when it appears that the services of the public guardian are no longer necessary.

C. 52:27G-31 Cost, fee waiver permitted.

12. In any proceeding for appointment of a public guardian, or in any proceeding involving the estate of an eligible elderly person for whom a public guardian has been appointed conservator or guardian, the court may waive any court costs or filing fees.

13. There is appropriated \$200,000.00 from the General Fund to the Office of the Public Guardian within the Department of Community Affairs to effectuate the purposes of this act.

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

Approved August 23, 1985.

CHAPTER 299

AN ACT to amend and supplement the "Raffles Licensing Law," approved February 20, 1954 (P. L. 1954, c. 5).

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

1. Section 2 of P. L. 1954, c. 5 (C. 5:8-51) is amended to read as follows:

C. 5:8-51 Organizations eligible for raffle licenses.

2. It shall be lawful for the governing body of any municipality, at any time after this act shall become operative within such municipality and except when prohibited by this act, to license bona fide organizations or associations of veterans of any war in which the United States has been engaged, churches or religious congregations and religious organizations, charitable, educational and fraternal organizations, civic and service clubs, senior citizen associations and clubs, officially recognized volunteer fire companies, and officially recognized volunteer first aid or rescue squads, to hold and operate the specific kind of game or games of chance commonly known as a raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such game or games and by conducting the game or games accordingly, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations and clubs to the support of these organizations, and for any such organization or association, church, congregation, society, club, company or squad, when so licensed or without any license when and as hereinafter prescribed, to hold, operate and conduct such game of chance by its active members pursuant to this act and such license, in such municipality and to sell shares or tickets or rights to participate in such game or games of chance therein and in any other municipality which shall have adopted this act and under such conditions and regulations for the supervision and conduct thereof as shall be prescribed by rules and regulations duly adopted from time to time by the Legalized Games of Chance Control Commission, hereinafter designated as the control commission, not inconsistent with the provisions of this act, but only when the entire net proceeds thereof are devoted to the

uses aforesaid and for any person or persons to participate in and play such games of chance conducted under any such license.

No license shall be required for the holding, operating or conducting of a raffle for a door prize of donated merchandise of the value of less than \$50.00 for which no extra charge is made at an assemblage at which no other game of chance is held, operated or conducted, if the proceeds of such assemblage are devoted to the uses described in this section.

2. Section 3 of P. L. 1954, c. 5 (C. 5:8-52) is amended to read as follows:

C. 5:8-52 Application.

3. Each applicant for such a license shall file with the clerk of the municipality a written application therefor in the form prescribed in said rules and regulations, duly executed and verified, in which shall be stated the name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable the governing body of the municipality to determine whether or not it is a bona fide organization or association of veterans of any war in which the United States has been engaged, or a church or a religious congregation or religious organization, or a charitable, educational or fraternal organization, or a civic or service club, or a senior citizen association or club, or an officially recognized volunteer fire company or an officially recognized volunteer first aid or rescue squad; names and addresses of its officers; the specific kind or kinds of game or games of chance intended to be held, operated and conducted by the applicant, and the place or places where, the date or dates and the time or times when, such game or games of chance are intended to be held, operated and conducted by the applicant, under the license applied for; the items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such game or games of chance and the names and addresses of the persons to whom, and the purposes for which, they are to be paid; the specific purposes to which the entire net proceeds of such game or games of chance are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for holding, operating or conducting of such game or games of chance or shall assist therein except as in this act otherwise provided; and that no prize will be offered and given in cash except as otherwise provided in this act or of greater value than is provided in this act and a description of the value and character of the prizes which

are to be given and any other information which said rules and regulations may require.

In each application there shall be designated an active member or members of the applicant under whom the game or games of chance described in the application are to be held, operated and conducted and to the application shall be appended a statement executed by the applicant and by the member or members, so designated, that he or they will be responsible for the holding, operation and conduct of such game or games of chance in accordance with the terms of the license and the provisions of said rules and regulations governing the holding, operation and conduct of such game or games of chance and of this act, if such license is granted.

In event that any equipment to be used in or in connection with the holding, operating or conducting of any such game of chance is to be leased from any person, persons or corporation, a written statement shall accompany the application, signed and verified under oath by such person or persons or executed and verified under oath on behalf of such corporation, stating his or its address and the amount of rent which will be paid for such equipment and that such rental conforms to the schedule of authorized rentals prescribed by rules of the Legalized Games of Chance Control Commission and that such lessor or lessors, or, if a corporation, all of its officers and each of its stockholders who hold 10% or more of its stock issued and outstanding have been approved by said commission as being of good moral character and not having been convicted of crime.

3. Section 12 of P. L. 1954, c. 5 (C. 5:8-61) is amended to read as follows:

C. 5:8-61 Conduct of licensed games.

12. No person shall hold, operate or conduct any game or games of chance under any license issued under this act except an active member of the organization, association, church, congregation, society, club, fire company, first-aid or rescue squad or senior citizen association or club to which the license is issued, and no person shall assist in the holding, operating or conducting of any game or games of chance under such license except such an active member or a member of an organization or association which is an auxiliary to the licensee and except bookkeepers or accountants as hereinafter provided, and no such game of chance shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee or shall be leased for a rental, the amount of which is stated in a statement

annexed to the application for the license as provided in section 3 of this act and conforms to the schedule of authorized rentals prescribed by rules of the Legalized Games of Chance Control Commission and the lessor or lessors of which have been approved as to good moral character and freedom from conviction of crime by said commission and no other item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of chance, held, operated or conducted pursuant to any license issued under this act, except such as are bona fide items of reasonable amount for goods, wares and merchandise furnished or services rendered, which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof, under any circumstances whatever, and no commission, salary, compensation, reward or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating or conducting, or assisting in the holding, operation or conduct of, any game of chance so held, operated or conducted, except that reasonable compensation may be paid to bookkeepers or accountants for bookkeeping or accounting services rendered according to a schedule of compensation prescribed by rule of the Legalized Games of Chance Control Commission, and no prize shall be given in cash in any such game of chance except as otherwise provided in this act.

4. Section 15 of P. L. 1954, c. 5 (C. 5:8-64) is amended to read as follows:

C. 5:8-64 Report to municipal clerk.

15. Within 15 days after the conclusion of the holding, operating and conducting of any such game of chance, the organization, association, church, congregation, society, club, fire company, first-aid or rescue squad, or senior citizen association or club which held, operated or conducted the same and its member or members who were in charge thereof shall furnish to the clerk of the municipality a duly verified statement showing the amount of the gross receipts derived from each such game of chance, which shall include receipts from the sale of shares, tickets or rights in any manner connected with participation in said game or the right to participate therein, each item of expense incurred or paid, and each item of expenditure made or to be made, name and address of each person to whom each such item has been or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net profit derived from each such game of chance, and the uses to which such net profit has been or is to be applied and a

list of prizes offered or given, with the respective values thereof and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

5. Section 16 of P. L. 1954, c. 5 (C. 5:8-65) is amended to read as follows:

C. 5:8-65 Examination authority.

16. The governing body of the municipality and the control commission shall have power to examine or to cause to be examined the books and records of any organization, association, church, congregation, society, fire company, first-aid or rescue squad or senior citizen association or club to which any such license is issued so far as they may relate to any transactions connected with the holding and conducting of any game of chance thereunder and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game of chance under any such license but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this act.

C. 5:8-51.1 Special license.

6. (New section) The governing body of any municipality shall issue a special license to any senior citizen association or club desiring to hold, operate and conduct games of chance solely for the purpose of amusement and recreation of its members. The special license shall be valid only for those games of chance held, operated and conducted where no player or other person furnishes anything of value for the opportunity to participate; the prizes awarded or to be awarded are nominal; no person other than a bona fide active member of the organization participates in the conduct of the games; and no person is paid for conducting or assisting in the conduct of the game or games. The special license shall be issued under this act without fee and shall be effective for a period of two years.

C. 5:8-51.2 Senior citizen club exemption.

7. (New section) Senior citizen associations or clubs holding, operating and conducting games of chance solely for the amusement and recreation of its members under a special license shall not be subject to the provisions of P. L. 1954, c. 5 (C. 5:8-50 et seq.).

8. This act shall take effect immediately.

Approved August 23, 1985.

CHAPTER 300

A SUPPLEMENT to "An act relating to the transportation system of the State and making an appropriation from the 'New Jersey Bridge Rehabilitation and Improvement Fund' therefor," approved July 12, 1984 (P. L. 1984, c. 74).

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

1. The appropriations herein made are appropriated out of the New Jersey Bridge Rehabilitation and Improvement Fund established in section 14 of the "New Jersey Bridge Rehabilitation and Improvement Bond Act of 1983," P. L. 1983, c. 363, are supplemental to the appropriations approved July 12, 1984 pursuant to P. L. 1984, c. 74, and are subject to all the provisions of those acts, except as hereinafter provided.

2. There is appropriated to the Department of Transportation the sum of \$4,256,490.00 for the cost of rehabilitation and improvement of bridges carrying county and municipal roads to be allocated to certain projects for which allocations were previously made pursuant to P. L. 1984, c. 74 and to those additional projects as described hereinbelow:

FEDERAL AID PROJECTS FOR WHICH ALLOCATIONS
WERE PREVIOUSLY MADE:

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Poplar Avenue Bridge (Construction)	Atlantic	\$1,000,000	\$1,050,000	+\$ 50,000
Mays Landing Somers Point Road over English Creek (Engineering; Construction, Right-of-Way added)	Atlantic	100,000	1,225,000	+1,125,000
Demarest Avenue over Tena- kill Brook (Engineering; Construction added; Right- of-Way subtracted)	Bergen	110,500	744,600	+ 634,100
Lincoln Avenue Bridge over Conrail (Construction) . . .	Bergen	2,100,000	2,000,000	- 100,000
State Street Bridge over Conrail (Construction) . . .	Bergen	800,000	1,630,881	+ 830,881

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Birmingham Road over Rancocas Creek (Construction; Engineering added)	Burlington	550,000	268,000	- 282,000
County Route 545 over Blacks Creek (Construction)	Burlington	350,000	350,000	0
Hillards Bridge over South Branch Rancocas Creek (Construction; Engineering added)	Burlington	350,000	368,000	+ 18,000
Marne Highway Bridge (Right-of-Way; Construction added)	Burlington	100,000	3,700,000	+3,600,000
New Freedom Road over South Branch Rancocas Creek (Construction; Engineering added)	Burlington	500,000	518,000	+ 18,000
Broadway over Newton Creek (Engineering; Right-of-Way added)	Camden	1,500,000	432,100	-1,067,900
Middle Thorofare Bridge (Right-of-Way; Construction added)	Cape May	50,000	3,050,000	+3,000,000
25th Street over Avalon Canal (Construction)	Cape May	610,000	600,000	- 10,000
21st Street over Avalon Canal (Construction)	Cape May	510,000	500,000	- 10,000
Jericho Road over Stow Creek (Construction)	Cumberland	1,000,000	1,000,000	0
Mill Road over Blackwater Branch (Construction)	Cumberland	600,000	600,000	0
Haleyville Road over Mill Creek (Construction)	Cumberland	300,000	860,000	+ 560,000
Highland Avenue/Baldwin Street over Conrail (Engineering; Construction subtracted)	Essex	470,000	100,000	- 370,000
Oakland Road over East Branch of Rahway River (Construction; Engineering added)	Essex	212,500	262,500	+ 50,000
Bay St./NJ Transit, Montclair (Engineering)	Essex	33,000	150,000	+ 117,000
13th St./NJ Transit, Newark (Engineering)	Essex	48,000	145,000	+ 97,000
Bathgate Place/NJ Transit, Newark (Engineering)	Essex	129,000	220,000	+ 91,000
7th Ave./NJ Transit, Newark (Engineering)	Essex	228,000	228,000	0
Oakview Ave. over E. Branch of Rahway River (Construction; Engineering added)	Essex	500,000	550,000	+ 50,000

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Oak Place/Forest St. over Toney's Brook (Construction; Engineering added) ..	Essex	500,000	550,000	+ 50,000
Deck Replacements: Sharps Road over Hospitality Branch; Aura-Willow Grove Road over Reed's Branch; Royal Avenue over Reeds Branch; Russel Mill Road over Raccoon Creek; Tom- lin Station Road over Raccoon Creek (Construction; Engineering added) ..	Gloucester	600,000	1,133,631	+ 533,631
Porches Mill Road over Old- man's Creek (Engineering, Construction)	Gloucester	300,000	602,000	+ 302,000
Piney Hollow Road over Great Egg Harbor (Engi- neering, Construction)	Gloucester	300,000	552,000	+ 252,000
Franklin Street over Narrat- tion Run (Engineering, Construction)	Gloucester	300,000	652,000	+ 352,000
Linden Avenue over Raritan Valley Line (Engineering; Construction subtracted) ..	Hudson	2,700,000	400,000	-2,300,000
14th Street Viaduct (Construction)	Hudson	4,000,000	5,500,000	+1,500,000
Asbury Bridge over Musconet- cong River (Construction)	Hunterdon	1,610,000	1,625,000	+ 15,000
Old Clinton Road over Assis- cong River (Construction subtracted)	Hunterdon	200,000	0	- 200,000
Spruce Run Road over Spruce Run (Engineering; Con- struction added; Right-of- Way subtracted)	Hunterdon	125,000	220,000	+ 95,000
Harrison Street Bridge, Princeton (Engineering; Right-of-Way subtracted)	Mercer	300,000	417,021	+ 117,021
Warren Street Bridge (Construction)	Mercer	600,000	600,000	0
Fackler Road over Shipatau- kin Creek (Construction; Engineering, Right-of-Way added)	Mercer	675,000	700,000	+ 25,000
Iron Bridge Road over Cross- wicks Creek (Construction; Engineering, Right-of-Way added)	Mercer	262,500	825,000	+ 562,500

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Washington Street Bridge, Perth Amboy (Construction)	Middlesex	6,500,000	8,500,000	+2,000,000
Florida Grove Road over LVRB (Construction)	Middlesex	1,500,000	1,500,000	0
Bordentown Ave. Bridge/Con- rail, South Amboy (Engi- neering; Right-of-Way, Construction added)	Middlesex	85,000	476,250	+ 391,250
Major Road Bridge over Amtrak (Right-of-Way; Construction added)	Middlesex	20,000	3,095,000	+3,075,000
Cranbury Neck Road over Millstone River (Engineer- ing; Right-of-Way added)	Middlesex	140,000	139,805	- 195
Bridge H-2 (Construction) ..	Monmouth	1,100,000	1,074,670	- 25,330
Laurel Drive over Big Brook (Construction)	Monmouth	440,000	0	- 440,000
5 Bridge Deck Replacements: Strickland Road over De- Bois Creek; Cooper Road over McCless Creek; Morn- ingside Avenue over Flat Creek; Wall Church Road over Wreck Pond; Ocean Blvd. over Wreck Pond (Construction; Engineering added)	Monmouth	375,000	429,100	+ 54,100
Gully Road over Shark River (Construction; Engineering added)	Monmouth	320,000	375,100	+ 55,100
Texas Road over Deep Run (Construction; Engineering added)	Monmouth	260,000	314,600	+ 54,600
Hominy Hill Road over Mine Brook (Construction sub- tracted)	Monmouth	200,000	0	- 200,000
Abbett Avenue Bridge (Construction)	Morris	600,000	800,000	+ 200,000
North Main Street over NJ Transit (Engineering, Con- struction; Right-of-Way added)	Morris	1,050,000	1,500,000	+ 450,000
Morris Avenue over Rockaway River (Right-of-Way, Con- struction subtracted)	Morris	950,000	0	- 950,000
Morris Avenue over Tributary of Rockaway River (Right- of-Way, Construction)	Morris	750,000	750,000	0

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Center Street over Whippany River, Bridge #119 (Construction)	Morris	240,000	240,000	0
Strickland Boulevard over Inwood Thorofare (Construction subtracted)	Ocean	800,000	0	- 800,000
Bayview Boulevard over Potters Creek (Construction)	Ocean	250,000	300,000	+ 50,000
Bay Avenue over South Creek (Construction)	Ocean	200,000	200,000	0
Bennetts Mill Road over Metedeconk River (Construction subtracted)	Ocean	500,000	0	- 500,000
Arch Street Bridge (Right-of-Way; Construction added)	Passaic	100,000	2,300,000	+2,200,000
Straight Street Bridge (Engineering; Right-of-Way added)	Passaic	250,000	542,000	+ 292,000
Pacific Avenue over Conrail (Engineering, Construction)	Passaic	210,000	325,000	+ 115,000
Dixon Avenue over Slippery Rock Brook (Engineering, Construction)	Passaic	200,000	275,000	+ 75,000
Old Turnpike Road over Singac Brook (Engineering, Construction)	Passaic	250,000	275,000	+ 25,000
Snake Den Road over West Brook (Engineering)	Passaic	50,000	75,000	+ 25,000
Caldwell Avenue over Slippery Rock Brook (Engineering, Construction)	Passaic	200,000	225,000	+ 25,000
Black Bridge over Game Creek (Construction)	Salem	380,000	450,900	+ 70,900
Elmer-Hardingville Road over Muddy Run (Construction)	Salem	360,000	400,000	+ 40,000
Lincoln Mill Road over Oldman's Creek (Construction subtracted)	Salem	375,000	0	- 375,000
Queens Bridge (Construction subtracted)	Somerset	1,000,000	0	-1,000,000
Washington Street Bridge (Construction)	Somerset	800,000	1,190,000	+ 390,000
Finderne Avenue Bridge (Construction)	Somerset	2,000,000	2,479,545	+ 479,545
Black Point Road over Neshanic River #BO505 (Construction)	Somerset	225,000	279,207	+ 54,207

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Province Line Road Bridge #CO104, Montgomery Twp. (Construction)	Somerset	340,000	390,000	+ 50,000
Grandview Road Bridge #CO306, Montgomery Twp. (Engineering, added; Con- struction subtracted)	Somerset	312,000	50,000	- 262,200
River Road, Bridge #C1001, Bedminster Township (Con- struction subtracted)	Somerset	360,000	0	- 360,000
Burnt Hill Road Bridge #DO207, Montgomery Twp. (Engineering added; Con- struction subtracted)	Somerset	320,000	50,000	- 270,000
Harlingen Road Bridge #EO304, Montgomery Twp. (Construction subtracted)	Somerset	234,000	0	- 234,000
Bridge S-20 over Paulins Kill Lake (Right-of-Way; Con- struction subtracted)	Sussex	1,400,000	40,000	-1,360,000
County Road 615 over Little Flat Brook (Engineering, Right-of-Way)	Sussex	120,000	75,000	- 45,000
Clove Road (County Road 653) over Mill Brook (Engi- neering, Right-of-Way) ...	Sussex	170,000	130,000	- 40,000
Price Brook Street over West Brook (Construction sub- tracted)	Union	842,000	0	- 842,000
Mountain Avenue Bridge (Construction subtracted)	Union	600,000	0	- 600,000
Terrill Road Railroad Bridge over CRRNJ (Construc- tion)	Union	2,000,000	971,310	-1,028,690
N. Brook Street over West Brook (Construction)	Union	300,000	300,000	0
S. Brook Street over West Brook (Construction)	Union	300,000	300,000	0
Tuttle Parkway/NJ Transit, Westfield (Engineering) ..	Union	274,000	274,000	0
Knopf Street over West Brook (Construction sub- tracted)	Union	385,000	0	- 385,000
South Main Street Bridge (Construction)	Warren	1,300,000	1,200,000	- 100,000
Bridge #52, Lambert Road over Paulins Kill (Construc- tion)	Warren	500,000	889,876	+ 389,876

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
County Road 643 over Pohatcong Creek (Right-of-Way, Construction)	Warren	600,000	480,000	— 120,000
Shurts Road over Musconetcong River (Engineering, Right-of-Way)	Warren	200,000	180,000	— 20,000
County Road 649 over Pohatcong Creek (Engineering, Right-of-Way)	Warren	200,000	180,000	— 20,000
Bridge Inspections	Statewide	3,355,000	1,425,000	—1,930,000

NON-FEDERAL AID PROJECTS FOR WHICH ALLOCATIONS WERE
PREVIOUSLY MADE (STATE SHARE):

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Dorset Avenue Bridge over Inside Thorofare, Ventnor	Atlantic	480,000	480,000	0
Hillsdale Avenue Bridge, Hillsdale Borough	Bergen	902,400	902,400	0
Salem Street Bridge, Haekensack/Bogota	Bergen	653,360	653,360	0
Doty Road Bridge, Oakland Borough	Bergen	238,240	238,240	0
Lenola Road Bridge, Moorestown and Maple Shade ...	Burlington	560,000	560,000	0
North Pemberton Road, Pemberton	Burlington	320,000	320,000	0
Almonesson-Blenheim Road over Big Timber Creek (Bridge 7 B 3)	Camden	288,000	288,000	0
Sickleville Road over Great Egg Harbor, Winslow Township (Bridge 11 F 13)	Camden	220,000	220,000	0
Cherry Hill over South Branch of Pennsauken Creek (Bridge 3 E 7)	Camden	352,000	352,000	0
Elmira Street Bridge, Cape May City and Borough of West Cape May	Cape May	350,000	200,000	— 150,000
Great Channel Bridge, Middle Twp. and Borough of Stone Harbor	Cape May	150,000	150,000	0
Sharp Street Bridge, Millville	Cumberland	240,000	240,000	0
Beaver Dam Bridge, Downe Twp.	Cumberland	260,000	260,000	0

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
Jefferson Avenue Bridge, Maplewood	Essex	150,000	150,000	0
Glen Avenue Bridge, Millburn	Essex	440,000	440,000	0
Pierson Road Bridge, Maple- wood	Essex	280,000	280,000	0
James Street Bridge, Bloom- field	Essex	400,000	400,000	0
Fairfield Avenue Bridge, Fairfield	Essex	320,000	0	- 320,000
Almonesson-Blenheim Road over Big Timber Creek ...	Gloucester	385,500	385,500	0
Kings Highway over Oldman's Creek	Gloucester	72,000	72,000	0
Union Road, East Greenwich Township	Gloucester	76,000	76,000	0
Shoppers Lane Bridge, Washington Township ...	Gloucester	120,000	120,000	0
Park Avenue, Weehawken and Hoboken	Hudson	160,000	160,000	0
County Road, Secaucus and Jersey City	Hudson	320,000	320,000	0
Baldwin Avenue, Jersey City	Hudson	200,000	0	- 200,000
Newark Avenue, Jersey City	Hudson	120,000	0	- 120,000
Montgomery Street, Jersey City	Hudson	207,000	527,000	+ 320,000
County Route 512, Califon Borough	Hunterdon	480,000	480,000	0
Trenton Avenue, Frenchtown Borough	Hunterdon	188,000	188,000	0
County Route 579, Franklin Township	Hunterdon	176,000	176,000	0
County Route 519, Holland Township	Hunterdon	192,000	192,000	0
Princeton Junction-Cranbury Road, West Windsor Twp.	Mercer	320,000	320,000	0
Washington Crossing-Pen- nington Road, Hopewell Twp.	Mercer	164,000	164,000	0
Pennington-Centerville Road, Pennington Borough and Hopewell Township	Mercer	268,000	268,000	0
Prospect Plains, Monroe Twp.	Middlesex	488,000	488,000	0
Bordentown Avenue Bridge, Sayreville	Middlesex	800,000	800,000	0
Shrewsbury Avenue, Shrews- bury Borough	Monmouth	240,000	240,000	0
Branchport Avenue, Long Branch and Oceanport ...	Monmouth	360,000	360,000	0
Tinton Avenue, Tinton Falls Borough	Monmouth	510,000	510,000	0

Project	County	Estimated Cost, P. L. 1984, c. 74	Revised Estimated Cost	Change
County Route 1, Millstone Township	Monmouth	200,000	200,000	0
Main Street, Middletown Twp.	Monmouth	200,000	0	- 200,000
Tanners Brook/Route 24, Washington Township	Morris	285,600	285,600	0
Savage Road, Denville Town- ship	Morris	269,600	269,600	0
Valley Road, Boonton Town- ship	Morris	233,600	233,600	0
Rockaway Valley Road, Boonton Township	Morris	173,600	173,600	0
North Four Bridges Road, Washington Township	Morris	245,600	245,600	0
Main Street Bridge, Plumsted Township	Ocean	544,000	544,000	0
Great Bay Boulevard Bridge, Little Egg Harbor Twp. ..	Ocean	184,000	184,000	0
West Broadway, Paterson City/Haledon Borough ...	Passaic	560,000	560,000	0
Spruce Street, Paterson City	Passaic	520,000	520,000	0
Long Bank Bridge, Lower Alloways Creek Twp.	Salem	384,000	0	- 384,000
Burnt Mills Road Bridge, Bedminster	Somerset	287,200	287,200	0
Willow Avenue Bridge, Peapack-Gladstone	Somerset	140,000	140,000	0
Harlingen Road Bridge, Montgomery Township ...	Somerset	60,000	60,000	0
Sunnymede Road Bridge, Hillsborough	Somerset	258,400	258,400	0
Gilbride Road Bridge, Bridge- water Township	Somerset	182,400	182,400	0
County Route 604/Waterloo Rd., Byram Township	Sussex	384,000	384,000	0
Houses Corner Road Bridge, Sparta Township	Sussex	132,800	132,800	0
Price and Lumber Streets, Linden	Union	664,000	664,000	0
Amsterdam Avenue, Roselle Borough	Union	448,000	448,000	0
County Route 637, Greenwich Township	Warren	432,000	432,000	0
Emergency and Discretionary Projects		3,830,300	3,714,300	- 116,000

ADDITIONAL FEDERAL-AID PROJECTS:

Project	County	Estimated Cost
Sherman Avenue Bridge (Construction)	Cumberland	500,000

Project	County	Estimated Cost
N. Clinton Avenue Bridge (Construction)	Mercer	445,000
Falcon Road Bridge (Construction)	Somerset	300,000
Rattlesnake Road Bridge (Construction)	Somerset	500,000
Blackwell Street/NJ Transit, Dover (Engineering)	Morris	85,000
Maple Avenue/NJ Transit, Summit (Engineering) ...	Union	85,000
Summit Avenue/NJ Transit, Summit (Engineering)	Union	85,000
Fanny Road/NJ Transit, Mt. Lakes (Engineering)	Morris	85,000
Sixth Avenue/NJ Transit, Newark (Engineering) ...	Essex	80,000
Fifth Avenue/NJ Transit, Newark (Engineering) ...	Essex	80,000
Miscellaneous Contract Adjustments		4,086,575
For Personal Services by Contract for Planning, Engineering, Design, Right- of-Way Acquisition, or Other Costs Relating to the Construction Program		1,100,000
Miscellaneous Bridges, Various Counties		406,380

ADDITIONAL NON-FEDERAL AID PROJECTS (STATE SHARE):

Project	County	Estimated Cost
West Parker Avenue	Essex	320,000
Kings Highway Bridge #479	Salem	68,000
Chestnut Street Bridge #704	Salem	288,000
Marshalls Mill Bridge #1352	Salem	144,000
Mill Creek Bridge	Cape May	150,000
Laurelwood Drive Bridge ...	Monmouth	200,000
TOTALS		
Total Estimated Project Costs		\$100,682,652
Less Federal Funds		61,377,241
Less Local Funds		1,805,411
Less Railroad Funds		0
Less P. L. 1984, c. 74 Appropriations		33,243,510
TOTAL APPROPRIATIONS		\$ 4,256,490

3. In addition to the powers vested in the Department of Transportation pursuant to section 10 of P. L. 1984, c. 74, the department is empowered to enter into negotiations and agreements with the federal government, county and municipal governments, railroads, and other public and private agencies for the purpose of securing any available federal aid or matching funds and to receive any such grants and funds and thereafter the State Treasurer may cause them to be established and maintained in the New Jersey Bridge Rehabilitation and Improvement Fund. Any federal or other funds so established and maintained may be expended by the department for the uses and purposes enumerated herein, subject to the same restrictions and control as are exercised over all other appropriated State funds.

4. This act shall take effect immediately.

Approved August 23, 1985.

CHAPTER 301

A SUPPLEMENT to "An act relating to the transportation system of the State and making an appropriation from the 'New Jersey Bridge Rehabilitation and Improvement Fund' therefor," approved July 12, 1984 (P. L. 1984, c. 75).

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

1. The appropriations herein made are appropriated out of the New Jersey Bridge Rehabilitation and Improvement Fund established in section 14 of the "New Jersey Bridge Rehabilitation and Improvement Bond Act of 1983," P. L. 1983, c. 363, are supplemental to the appropriations approved July 12, 1984 pursuant to P. L. 1984, c. 75, and are subject to all the provisions of those acts, except as hereinafter provided.

2. There is appropriated to the Department of Transportation the sum of \$56,511,100 for the cost of rehabilitation and improvement of bridges carrying State highways to be allocated to certain

projects for which allocations were previously made pursuant to P. L. 1984, c. 75 and to those additional projects and phases of projects as described hereinbelow:

Projects For Which Allocations Were Previously Made:

Route	Description	County	Additional Cost
1 & 9	Underpass at Conrail (CRRNJ) Elizabeth (Construction)	Union	\$900,000
1 & 9 T	Over St. Pauls Avenue (Engineering)	Hudson	1,000,000
4	Over Kinderkamack Road (Engineering)	Bergen	625,000
4	Over Passaic River and Route 20 (Construction)	Bergen/Passaic	300,000
15	Over Paulins Kill (Engineering)	Sussex	39,000
21	Over I-78 & Conrail	Essex	1,000,000
23	N. B. over Pequannock River #1605-158 (Engineering)	Passaic	110,000
23	Over Passaic River (Engineering)	Passaic	118,000
27	Over Harry's Brook (Engineering)	Mercer	40,000
30	Over Cooper River	Camden	349,120
34	Over Leffert's Lake (Engineering)	Monmouth	165,000
35	Over Raritan River (Engineering)	Middlesex	396,000
35	Over Shark River (Engineering)	Monmouth	875,000
36	Over Shrewsbury River	Monmouth	850,000
45	Over Culliers Run, Mannington Creek (Engineering)	Salem	250,000

Route	Description	County	Additional Cost
46	Over Musconetcong River (Engineering)	Warren	25,000
46	Dover Viaduct over Rockaway River & Conrail (Construction)	Morris	4,960,000
46	E. B. over Rt. 4 Ramps B&L (Engineering)	Bergen	250,000
46	Over Rockaway River Blackwell Street #1409-155 Rt. 15 & CRRNJ (Engineering)	Morris	150,000
47	Over Grassy Sound (Engineering)	Cape May	50,000
52	Over Beach Thorofare, Rainbow Thorofare, Elbow Thorofare, Ship Channel (Construction)	Cape May	2,000,000
54	Over Penney Pot Stream (Engineering)	Atlantic	10,000
54	Over Great Egg Harbor River (Engineering)	Atlantic	10,000
70	Route 70 over Route 9 (Construction)	Ocean	1,120,000
88	Over Metedeconk River (Right-of-Way)	Ocean	650,000
156	Over Doctors Brook (Engineering)	Mercer	100,000
495	Fencing various struc- tures (Engineering)	Hudson	25,000
495	Over Marginal Street, Park Avenue (Right-of- Way, Construction)	Hudson	3,181,000
	Rehabilitation of Bridge	Statewide	24,000,000
	Operating Machinery		
	Emergency Repairs to Bridges	Statewide	1,000,000

Route	Description	County	Additional Cost
	Bridge Inspection & Rating	Statewide	6,000,000
	Miscellaneous Contract Adjustments—Utilities, Engineering	Statewide	5,884,300
	D&R Canal Bridges Contract 1 (Engineering)	Various	275,000
	D&R Canal Bridges Contract 2 (Engineering)	Various	275,000
	D&R Canal Bridges Contract 3 (Engineering)	Various	275,000

Additional Projects and Phases of Projects:

Route	Description	County	Estimated Cost
17	Terrace Ave. Bridge over Route 17 (Construction)	Bergen	\$2,500,000
17	Fairview Avenue over Route 17 (Engineering)	Bergen	60,000
18	Structure over Lawrence Brook (Construction)	Middlesex	8,100,000
21	Ramp 5 Bridge from Route 21F N.B. to Route 3	Passaic	1,000,000
23	S.B./Pequannock River (Engineering)	Passaic	25,000
23	N.B./Pequannock River (Engineering)	Passaic	110,000
23	Over Hamburg Turnpike, Pequannock River and NYS&W Railroad	Morris/Passaic	190,000
27	Over Six Mile Run (Engineering)	Middlesex	25,000
30	Over Atlantic City Line (Engineering)	Camden	55,000
35	Over Matawan Creek (Right-of-Way)	Middlesex	900,000
45	Over Fenwick Creek (Engineering)	Salem	20,000

Route	Description	County	Estimated Cost
46	Rt. 46 over Rt. 53 (Construction)	Morris	650,000
49	Over Alloway River (Engineering)	Salem	50,000
49	Fender Repairs at Salem River (Construction)	Salem	1,350,000
49	Over Salem River (Engineering)	Salem	360,000
52	Over Beach Thorofare, Rainbow Thorofare, Elbow Thorofare, Ship Channel, Somers Point and Ocean City (Engineering)	Cape May	1,625,000
56	Over Rainbow Lake (Engineering)	Salem	150,000
71	Over Shark River (Engineering)	Monmouth	80,000
72	Four Structures (Engineering)	Ocean	100,000
73	Bridge over Rt. 30 (Right-of-Way)	Camden	1,100,000
88	Over Metedeconk River (Construction)	Ocean	2,600,000
152	Somers Point to Long- port Structures Replace- ment (Construction)	Atlantic	38,600,000
163	Over Rt. 46 & Conrail (Engineering)	Warren	20,000
166	Over Jakes Branch (Engineering)	Ocean	100,000
167	Lovelands Thorofare (Engineering)	Burlington	10,000
206	Over Raritan River (Engineering)	Somerset	50,000
295	Over Raccoon Creek & Oldmans Creek (Construction)	Gloucester Salem	750,000

Route	Description	County	Estimated Cost
295	Over Salem Canal, New Jersey Turnpike, Rt. 40 (Engineering)	Salem	75,000
295	Over Browning Road (Engineering)	Camden	20,000
	Chain Link Fence on Bridges	Statewide	1,075,000
	Total		<hr/> \$119,007,420
	Less Federal Funds		59,496,320
	Less Other Funds		3,000,000
	Total Appropriations		<hr/> \$56,511,100 <hr/>

3. In addition to the powers vested in the Department of Transportation pursuant to section 7 of P. L. 1984, c. 75, the department is empowered to enter into negotiations and agreements with the federal government, county and municipal governments, railroads, and other public and private agencies for the purpose of securing any available federal aid or matching funds and to receive any such grants and funds and thereafter the State Treasurer may cause them to be established and maintained in the New Jersey Bridge Rehabilitation and Improvement Fund. Any federal or other funds so established and maintained may be expended by the department for the uses and purposes enumerated herein, subject to the same restrictions and control as are exercised over all other appropriated State funds.

4. This act shall take effect immediately.

Approved August 23, 1985.

CHAPTER 302

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$30,000,000.00 for the purpose of providing grants and loans to local units of government in the pinelands area for infrastruc-

ture capital projects necessary to accommodate development in the regional growth area; providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof; providing for the submission of this act to the people at a general election and making an appropriation therefor.

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

1. This act shall be known and may be cited as the “Pinelands Infrastructure Trust Bond Act of 1985.”

2. The Legislature finds and declares that the “Pinelands Protection Act,” P. L. 1979, c. 111 (C. 13:18A-1 et seq.) was enacted and the comprehensive management plan was adopted thereunder to protect the unique natural, ecological, agricultural, scenic and recreational resources of the pinelands area for the enjoyment of all of the citizens of the State but the land use restrictions imposed and the development patterns encouraged to protect those resources will result in the increase in population in regional growth areas; that this growth will be accommodated through the pinelands development credit program which seeks to encourage landowners in areas wherein development is restricted to record use restrictions in the deeds to their land in return for monetary remuneration; that these pinelands development credits will be redeemed in regional growth areas permitting greater development densities; that this growth will require concomitant improvements to the infrastructure in these areas; that it is unreasonable and unjust to expect the taxpayers of these regional growth areas to assume the full financial burdens which result from the growth; and that it is altogether fitting and proper to provide for the capital investment in infrastructure improvements by the State through the issuance of bonds.

3. As used in this act:

a. “Commission” means the New Jersey Commission on Capital Budgeting and Planning;

b. “Commissioner” means the Commissioner of Environmental Protection;

c. “Comprehensive management plan” means the plan for the protection of the pinelands area, adopted pursuant to section 7 of P. L. 1979, c. 111 (C. 13:18A-8);

d. "Cost" means the expenses incurred in connection with: the acquisition by purchase, lease or otherwise, the development, and the construction of any project authorized by this act; the acquisition by purchase, lease or otherwise, and the development of any real or personal property for use in connection with any project authorized by this act, including any rights or interests therein; the execution of any agreements and franchises deemed by the department to be necessary or useful and convenient in connection with any project authorized by this act; the procurement of engineering, inspection, planning, legal, financial or other professional services, including the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating or other expenses incident to the financing, completing and placing into service of projects authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for or in connection with any project authorized by this act;

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

f. "Infrastructure capital project" or "project" means the acquisition, construction, improvement, expansion, repair or rehabilitation of all or part of any structure, facility or equipment (1) necessary for or ancillary to any transportation system, wastewater treatment system or water supply system, or (2) necessary for or ancillary to any system which may be authorized and designated by the Legislature as an infrastructure capital project;

g. "Local unit" means any county, municipality, authority or agency, which is not a State authority or agency, which has administrative jurisdiction over an area which would be served by, or which exercises functions which are appropriate for, the management of an infrastructure capital project;

h. "Pinelands area" means the area so designated by subsection a. of section 10 of P. L. 1979, c. 111 (C. 13:18A-11);

i. "Pinelands commission" means the commission created pursuant to section 4 of P. L. 1979, c. 111 (C. 13:18A-4);

j. "Regional growth area" means an area designated in the comprehensive management plan as a receiving area for pinelands development credits to accommodate regional growth.

4. a. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations to carry out the provisions of this act. The commissioner shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

b. The pinelands commission shall adopt an infrastructure master plan for use in evaluating projects to be funded with funds made available pursuant to this act.

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$30,000,000.00 for the purpose of providing grants and loans to any local unit in the pinelands area for infrastructure capital projects necessary to accommodate development in the regional growth area. These projects shall be approved by the commissioner only upon a finding that the master plan and zoning ordinance of the municipality, and the master plan of the county wherein the project is to take place, has been certified by the pinelands commission to be in conformance with the comprehensive management plan and upon a finding by the pinelands commission that the project conforms with the infrastructure master plan adopted by the pinelands commission pursuant to subsection b. of section 4 of this act and the provisions of the comprehensive management plan.

b. The interest rate of loans made to local units from the "Pinelands Infrastructure Trust Fund" shall not exceed 50% of the average interest rate of the Bond Buyer Municipal Bond Index for bonds available for purchase during the last 26 weeks preceding the date of the approval of the loan by the department.

c. Payments of principal and interest on loans made from the "Pinelands Infrastructure Trust Fund" shall be paid to the "Pinelands Infrastructure Trust Fund."

d. When a federal agency pays part of the cost of a project, the cost of the project shall be computed after deducting the federal contribution.

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "Pinelands Infrastructure Trust Bonds." These bonds shall be issued from

time to time as the issuing officials herein named shall determine, and may be issued in coupon form, fully-registered form or book-entry form. These bonds may be made subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, hereinafter referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest thereon when due and for the payment of the principal thereof at maturity. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

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

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State

at the general election held in the month of November, 1985, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the validity of the bonds and of the authority of the State to issue them. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

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

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

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

13. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in such form and with such privileges as

to their registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer, to be held thereby in a separate fund, which shall be known as the "Pinelands Infrastructure Trust Fund." The proceeds of this fund shall be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund.

15. a. The moneys in the "Pinelands Infrastructure Trust Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act, and all such moneys are appropriated for those purposes, and no such moneys shall be expended for those purposes, except as otherwise authorized in this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from available money in any fund of the treasury of the State to the credit of the "Pinelands Infrastructure Trust Fund" such sum as he may deem necessary. The sum so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, the moneys in the "Pinelands Infrastructure Trust Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of the fund shall be paid into the "Pinelands Infrastructure Trust Fund."

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials such evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon; the ownership thereof; and the security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for

advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at such price or prices and upon such terms and conditions as may be in the bonds.

19. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, provided the refunding bonds shall mature at any time or times not later than the latest maturity date of that series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds refunded if the bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to the maturities thereof and to the extent herein otherwise expressly provided.

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

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

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

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

21. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, which is to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied

and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

22. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1985. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 15 days prior to the election, to publish this act in at least 10 newspapers published in this State and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have each of the ballots printed as follows:

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

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

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

	Yes.	<p>PINELANDS PROTECTION BOND ACT</p> <p>Shall the act entitled the "Pinelands Infrastructure Trust Bond Act of 1985," which authorizes the State to issue bonds in the amount of \$30,000,000.00 for the purpose of providing grants and loans to local units in the pinelands area for infrastructure capital projects necessary to accommodate development in the regional growth area in a manner prescribed by law, and which provides ways and means to pay the interest on the debt by the sale of the bonds, be approved?</p>
	No.	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this act will provide \$30,000,000.00 for appropriation by the Legislature for grants and loans for transportation, wastewater treatment, water supply, and other infrastructure systems in the pinelands area. These projects would be approved only upon a finding that the master plan and zoning ordinance of the municipality, and the master plan of the county wherein the project is to take place has been certified by the pinelands commission to be in conformance with a comprehensive management plan and that the project conforms with the infrastructure master plan adopted by the pinelands commission.</p>

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

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

23. There is appropriated from the General Fund the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 22 of this act.

24. The commissioner shall submit to the State Treasurer and the commission with the department's annual budget request a plan for the expenditure of funds from the "Pinelands Infrastructure Trust Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or whole, by funds from the fund; and an estimate of expenditures for the upcoming fiscal year.

25. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the General Assembly Agriculture and Environment Committee, the Senate Energy and Environment Committee, or their successors, and the Subcommittee on Transfers of the Joint Appropriations Committee, or its successor, a copy of the plan called for under section 24 of this act, together with such changes therein as may have been required by the Governor's budget message.

26. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner shall report to and consult with the Subcommittee on Transfers of the Joint Appropriations Committee, or its successor.

27. This section and sections 22 and 23 of this act shall take effect immediately and the remainder of the act shall take effect as provided in section 22.

Approved August 23, 1985.

CHAPTER 303

AN ACT concerning patients in certain health care facilities, amending and supplementing P. L. 1945, c. 169, amending and supplementing P. L. 1968, c. 413 (C. 30:4D-1 et seq.), and making an appropriation therefor.

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 Civil Rights 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 post-secondary 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, 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.

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 qualified or eligible to receive skilled nursing or intermediate care facility services which are reimbursable by the Medicaid program pursuant to P. L. 1968, c. 413 (C. 30:4D-1 et seq.).

C. 10:5-12.2 Unlawful discrimination against Medicaid applicants.

2. (New section) It shall be an unlawful discrimination for any skilled nursing or intermediate care facility which is a Medicaid provider pursuant to P. L. 1968, c. 413 (C. 30:4D-1 et seq.) and whose Medicaid occupancy level is less than the Statewide occupancy level, to deny admission to a qualified Medicaid applicant when a nursing home bed becomes available; except that this requirement shall not be construed to apply to the transfer of a resi-

dent from a residential unit to a nursing care unit within a facility, as defined by regulation, or prohibit a life care community, as defined by regulation, from contracting with its own residents for prior rights to beds in the nursing care unit of the community. The Commissioner of Human Services shall modify this requirement based on the licensed bed capacity and the financial condition of a facility but in no case shall the Medicaid occupancy level of that facility be less than 35%. The commissioner shall by September 1 of each year provide the Institutions, Health and Welfare Committee of the Senate, the Corrections, Health and Human Services Committee of the General Assembly, and the Governor with a report stating in specific detail the adverse financial condition of each facility exempted from this requirement. The criteria used by the commissioner to modify this requirement shall be contained in regulations which he shall adopt pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), and a list of all skilled nursing or intermediate care facilities granted a modification by the commissioner shall be published in the New Jersey Register within one month of the commissioner's granting of the modification. Nothing in this section shall be construed to prohibit a religiously affiliated skilled nursing or intermediate care facility from utilizing religious affiliation as a uniform qualification for admission.

For the purpose of this subsection and section 3 of this amendatory and supplementary act, "Statewide occupancy level" means 45% of the total number of licensed beds in a skilled nursing or intermediate care facility for the first year following the effective date of this amendatory and supplementary act. For each year thereafter, the Commissioner of Human Services shall annually determine the Statewide occupancy level based on the commissioner's projection of the need for nursing facility bed space for qualified Medicaid applicants for that year, but the level shall not be less than 45%. Upon making the determination of what the Statewide occupancy level shall be for the next year, the commissioner shall promptly notify the members of the Senate Institutions, Health and Welfare Committee and General Assembly Corrections, Health and Human Services Committee, in writing, about the proposed level and the commissioner's rationale for so determining the level. After notifying the committee members, the commissioner shall adopt the Statewide occupancy level by regulation pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

For the purpose of this section and section 3 of this amendatory and supplementary act, "Medicaid occupancy level" means the average number of Medicaid recipients residing in a skilled nursing or intermediate care facility divided by the total number of licensed beds in the facility during that month. The Department of Human Services shall compile this information on a monthly basis and it shall be made available to the public upon request. This information shall be provided to the Division on Civil Rights on a monthly basis.

C. 10:5-12.3 Report of admission denial.

3. (New section) A person or agency having knowledge that a skilled nursing or intermediate care facility whose Medicaid occupancy level is less than the Statewide occupancy level has denied admission to a qualified Medicaid applicant shall promptly report this information to the Division on Civil Rights of the Department of Law and Public Safety.

4. 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 the Department 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 pro-

viding 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; or
- (2) Is a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act; or
- (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; or
- (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; or
- (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; or
- (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; or
- (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.

A person shall not be considered a qualified applicant if, within 24 months of becoming or making application to become a

qualified applicant, he has made a voluntary assignment or transfer of real or personal property, or any interest or estate in property, for less than adequate consideration. Such voluntary assignment or transfer of property shall be deemed to have been made for the purpose of becoming a qualified applicant in the absence of evidence to the contrary supplied by the applicant. This requirement shall not be applicable to Supplemental Security Income applicants or aged, blind or disabled applicants for Medicaid only unless authorized by federal law. Implementation of this requirement shall conform with the provisions of section 132 of Pub. L. 97-248, 42 U. S. C. § 1396 p. (c).

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.

5. Section 7 of P. L. 1968, c. 413 (C. 30:4D-7) is amended to read as follows:

C. 30:4D-7 Duties of commissioner.

7. Duties of commissioner. The commissioner is authorized and empowered to issue, or to cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules and regulations and administrative orders, and to do or cause to be done all other acts and things necessary to secure for the State of New Jersey the maximum federal participation that is available with respect to a program of medical assistance, consistent with

fiscal responsibility and within the limits of funds available for any fiscal year, and to the extent authorized by the medical assistance program plan; to adopt fee schedules with regard to medical assistance benefits and otherwise to accomplish the purposes of this act, including specifically the following:

a. Subject to the limits imposed by this act, to submit a plan for medical assistance, as required by Title XIX of the federal Social Security Act, to the federal Department of Health and Human Services for approval pursuant to the provisions of such law; to act for the State in making negotiations relative to the submission and approval of such plan, to make such arrangements, not inconsistent with the law, as may be required by or pursuant to federal law to obtain and retain such approval and to secure for the State the benefits of the provisions of such law;

b. Subject to the limits imposed by this act, to determine the amount and scope of services to be covered, that the amounts to be paid are reasonable, and the duration of medical assistance to be furnished; provided, however, that the department shall provide medical assistance on behalf of all recipients of categorical assistance and such other related groups as are mandatory under federal laws and rules and regulations, as they now are or as they may be hereafter amended, in order to obtain federal matching funds for such purposes and, in addition, provide medical assistance for the foster children specified in section 3 i. (7) of this act. The medical assistance provided for these groups shall not be less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under federal laws and rules and regulations to obtain federal matching funds for such purposes.

The commissioner is authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to extend the scope, duration, and amount of medical assistance on behalf of these groups of categorical assistance recipients, related groups as are mandatory, and foster children authorized pursuant to section 3 i. (7) of this act, so as to include, in whole or in part, the optional medical services authorized under federal laws and rules and regulations, and the commissioner shall have the authority to establish and maintain the priorities given such optional medical services; provided, however, that medical assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain federal matching funds.

The commissioner is further authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to issue, or cause to be issued through the Division of Medical Assistance and Health Services all necessary rules, regulations and administrative orders, and to do or cause to be done all other acts and things necessary to implement and administer demonstration projects pursuant to Title XI, section 1115 of the federal Social Security Act, including, but not limited to waiving compliance with specific provisions of this act, to the extent and for the period of time the commissioner deems necessary, as well as contracting with any legal entity, including but not limited to corporations organized pursuant to Title 14A, New Jersey Statutes (N. J. S. 14A:1-1 et seq.), Title 15, Revised Statutes (R. S. 15:1-1 et seq.) and Title 15A, New Jersey Statutes (N. J. S. 15A:1-1 et seq.) as well as boards, groups, agencies, persons and other public or private entities;

c. To administer the provisions of this act;

d. To make reports to the federal Department of Health and Human Services as from time to time may be required by such federal department and to the New Jersey Legislature as hereinafter provided;

e. To assure that any applicant, qualified applicant or recipient shall be afforded the opportunity for a hearing should his claim for medical assistance be denied, reduced, terminated or not acted upon within a reasonable time;

f. To assure that providers shall be afforded the opportunity for an administrative hearing within a reasonable time on any valid complaint arising out of the claim payment process;

g. To provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of this act;

h. To take all necessary action to recover any and all payments incorrectly made to or illegally received by a provider from such provider or his estate or from any other person, firm, corporation, partnership or entity responsible for or receiving the benefit or possession of the incorrect or illegal payments or their estates, successors or assigns, and to assess and collect such penalties as are provided for herein;

i. To take all necessary action to recover the cost of benefits incorrectly provided to or illegally obtained by a recipient, including those made after a voluntary divestiture of real or personal

property or any interest or estate in property for less than adequate consideration made for the purpose of qualifying for assistance. The division shall take action to recover the cost of benefits from a recipient, legally responsible relative, representative payee, or any other party or parties whose action or inaction resulted in the incorrect or illegal payments or who received the benefit of the divestiture, or from their respective estates, as the case may be and to assess and collect the penalties as are provided for herein, except that no lien shall be imposed against property of the recipient prior to his death except in accordance with section 17 of P. L. 1968, c. 413 (C. 30:4D-17). No recovery action shall be initiated more than five years after an incorrect payment has been made to a recipient when the incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof;

j. To take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient in accordance with sections 6 through 12 of this amendatory and supplementary act;

k. To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability; where it is known that a third party has a liability, to treat such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability;

l. To compromise, waive or settle and execute a release of any claim arising under this act including interest or other penalties, or designate another to compromise, waive or settle and execute a release of any claim arising under this act. The commissioner or his designee whose title shall be specified by regulation may compromise, settle or waive any such claim in whole or in part, either in the interest of the Medicaid program or for any other reason which the commissioner by regulation shall establish;

m. To pay or credit to a provider any net amount found by final audit as defined by regulation to be owing to the provider. Such payment, if it is not made within 45 days of the final audit, shall include interest on the amount due at the maximum legal rate

in effect on the date the payment became due, except that such interest shall not be paid on any obligation for the period preceding September 15, 1976. This subsection shall not apply until federal financial participation is available for such interest payments;

n. To issue, or designate another to issue, subpoenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents of any party, whether or not that party is a provider, which directly or indirectly relate to goods or services provided under this act, for the purpose of assisting in any investigation, examination, or inspection, or in any suspension, debarment, disqualification, recovery, or other proceeding arising under this act;

o. To solicit, receive and review bids pursuant to the provisions of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and supplements thereto, by authorized insurance companies and non-profit hospital service corporations or medical service corporations, incorporated in New Jersey, and authorized to do business pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940, c. 74 (C. 17:48A-1 et seq.), and to make recommendations in connection therewith to the State Medicaid Commission;

p. To contract, or otherwise provide as in this act provided, for the payment of claims in the manner approved by the State Medicaid Commission;

q. Where necessary, to advance funds to the underwriter or fiscal agent to enable such underwriter or fiscal agent, in accordance with terms of its contract, to make payments to providers;

r. To enter into contracts with federal, State, or local governmental agencies, or other appropriate parties, when necessary to carry out the provisions of this act;

s. To assure that the nature and quality of the medical assistance provided for under this act shall be uniform and equitable to all recipients.

C. 30:4D-17.3 Additional payments banned.

6. (New section) a. No person shall at any time knowingly charge, solicit, accept or receive, in addition to any amount otherwise required to be paid under P. L. 1968, c. 413 (C. 30:4D-1 et seq.), any gift, money, donation or other consideration other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient as a precondition of admitting a patient to a skilled nursing facility or intermediate

care facility or as a requirement for a patient's continued stay in the facility when the cost of the services provided therein to the patient is paid for in whole or in part under P. L. 1968, c. 413 (C. 30:4D-1 et seq.). A person who violates this subsection is guilty of a crime of the third degree.

b. No person shall knowingly require as a condition of accepting payment under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) that a person financially eligible for benefits or his family member pay or enter into an agreement to pay as a private patient at a skilled nursing or intermediate care facility for any period. A person who violates this subsection is guilty of a crime of the third degree.

c. No person shall knowingly require as a condition of continued stay at a skilled nursing facility or intermediate care facility that a person financially eligible for benefits under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) or his family member pay any sum of money, or other consideration, including the furnishing of an agreement by a family member which obligates that party to pay for care rendered a financially eligible person. A person who violates this subsection is guilty of a crime of the third degree.

d. The provisions of subsections a., b. and c. of this section shall not apply to agreements to provide continuing care between a life care community, as defined by regulation, and a person financially eligible for benefits under P. L. 1968, c. 413 (C. 30:4D-1 et seq.).

e. Any person who violates subsection a. of this section, in addition to any other penalties provided by law, is civilly liable: (1) to the paying individual for the amount of any gift, money, donation or other consideration, and for interest on the amount of any gift, money, donation or other consideration at the maximum legal rate in effect on the date of payment; (2) to the State for payment of any amount not to exceed threefold the amount of any gift, money, donation or other consideration referred to in subsection a. of this section; and (3) to the State for payment in the sum of \$5,000.00 for each claim submitted for reimbursement for a period in which a gift, money, donation or other consideration referred to in subsection a. of this section was charged, solicited, accepted, or received.

f. Any person who violates subsection b. or c. of this section in addition to any other penalties provided by law is civilly liable to: the paying individual for the amount paid on behalf of a financially eligible person plus interest at the maximum legal rate

in effect on the date of payment and attorney's fees; and to the State for payment of a penalty in the amount of \$5,000.00.

g. The Attorney General may bring a civil action in the name of the paying individual and the Department of Human Services for the collection and enforcement of civil penalties provided for in this section.

A paying individual may bring a civil action in the Superior Court to enforce his rights under this section.

A civil penalty incurred pursuant to this section may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law," N. J. S. 2A:58-1 et seq.

C. 30:4D-17.4 Reimbursement for retroactive eligibility.

7. (New section) If an applicant is determined to be eligible under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) retroactively and the provider bills the applicant directly for the services and benefits rendered during the retroactive period, the provider shall, upon notification of the applicant's retroactive eligibility, submit claims for reimbursement for covered services or benefits rendered during the retroactive period. Upon certification that the applicant is so eligible, the provider shall reimburse the applicant or other person who has made prior payment to the provider.

C. 30:4D-17.5 Adjusted reimbursement rates.

8. (New section) The commissioner may establish adjusted reimbursement rates for skilled nursing and intermediate care facilities which experience financial hardship due to an average monthly Medicaid recipient census in excess of a percentage of licensed bed capacity as determined by the commissioner. The adjusted rates shall be adopted pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

C. 30:4D-17.6 Provider withdrawal.

9. (New section) a. If a skilled nursing or intermediate care facility notifies the commissioner within 180 days following the date of enactment of this amendatory and supplementary act that the facility shall no longer be a Medicaid provider and that the facility has one or more Medicaid eligible patients residing therein, the commissioner may, at the request of the facility, permit the facility to continue to provide skilled nursing or intermediate care services to those Medicaid eligible patients residing therein without being required to admit any new Medicaid eligible patients.

The commissioner may grant a facility's request to do so if the request is in the best interests of the Medicaid eligible patients residing therein. For the period of time that the Medicaid eligible patients continue to reside in the facility, that facility shall comply with all applicable provisions of P. L. 1968, c. 413 (C. 30:4D-1 et seq.).

b. If a skilled nursing or intermediate care facility which withdraws as a Medicaid provider pursuant to this section subsequently reapplies to the department to become a Medicaid provider, the commissioner may require as a condition of becoming a Medicaid provider that the facility enter into a three year Medicaid provider contract with the department.

C. 30:4D-17.7 \$13 million contingency account.

10. (New section) There is appropriated \$13,000,000.00 from the General Fund to the Department of Human Services. These funds are to be deposited in a newly established contingency account within the Division of Medical Assistance and Health Services. No funds shall be expended without the submission of adequate documentation as to the need for these funds to effect the purpose of this act and without the approval of the Director of the Division of Budget and Accounting who shall consult with the Legislative Budget Officer prior to authorizing expenditures.

11. (New section) There is appropriated \$25,000.00 from the General Fund to the Department of Law and Public Safety to effectuate the purposes of this act.

C. 30:4D-17.8 Posting, distribution of law.

12. (New section) Each skilled nursing facility and intermediate care facility shall post a statement of the provisions of this amendatory and supplementary act that apply to that facility in a prominent place in the facility, and a copy of the statement shall be given to each person who applies for admission, at the time of application.

C. 30:4D-17.9 Annual report.

13. (New section) The Commissioner of Human Services shall report annually to the Governor and the Legislature on the effect of the provisions of this amendatory and supplementary act on reducing the shortage of skilled nursing and intermediate care facility bed space for Medicaid recipients, the status of the availability of bed space throughout the State and whether any additional admission requirements are necessary to ensure an adequate number of

skilled nursing and intermediate care facility beds for Medicaid eligible persons.

14. This act shall take effect on the 90th day following enactment except that section 6 of this amendatory and supplementary act shall take effect immediately.

Approved August 24, 1985.

CHAPTER 304

AN ACT providing a deduction from taxable income under the gross income tax for certain property taxes, providing a refund of a portion of certain property taxes for persons not subject to the gross income tax, supplementing Title 54A of the New Jersey Statutes, and amending N. J. S. 54A:4-3.

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

C. 54A:3A-1 Short title.

1. (New section) Sections 1 through 14 of this act shall be known and may be cited as the "Homestead Tax Relief Act."

C. 54A:3A-2 Definitions.

2. (New section) As used in this act:

a. "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.).

b. "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association.

c. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

d. "Dwelling house" means any residential property assessed as real property which consists of not more than four units, of which

not more than one may be used for commercial purposes, but shall not include a unit in a condominium, cooperative, horizontal property regime or mutual housing corporation.

e. "Homestead" means and includes:

(1) (a) a dwelling house and the land on which that dwelling house is located which constitutes the place of the claimant's domicile and is owned and used by the claimant as his principal residence;

(b) a dwelling house situated on land owned by a person other than the claimant which constitutes the place of the claimant's domicile and is owned and used by the claimant as his principal residence;

(c) a condominium unit or a unit in a horizontal property regime which constitutes the place of the claimant's domicile and is owned and used by the claimant as his principal residence.

A person shall be deemed to have ownership of a homestead under this paragraph (1) if that person is a tenant for life or a tenant under a lease for 99 years or more and is entitled to and actually takes possession of the homestead under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan;

(2) a unit in a cooperative or mutual housing corporation which constitutes the place of domicile of a residential shareholder or lessee therein, or of a lessee or shareholder who is not a residential shareholder therein, as his principal residence; and a unit of residential rental property, which unit constitutes the place of the claimant's domicile and is used by the claimant as his principal residence.

f. "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.).

g. "Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of this State on a mutual or cooperative basis within the scope of section 607 of the Lanham Act (National Defense Housing), Pub. L. 849, 76th Congress (42 U. S. C. § 1521 et seq.), as amended, which acquired a National Defense Housing Project pursuant to that act.

h. "Principal residence" means a homestead actually and continually occupied by a claimant as his permanent residence, as distinguished from a vacation home, property owned and rented

or offered for rent by the claimant, and other secondary real property holdings.

i. "Residential rental property" means and includes:

(1) any building or structure or complex of buildings or structures in which dwelling units are rented or leased or offered for rental or lease for residential purposes;

(2) a rooming house, hotel or motel, if the rooms constituting the homestead are equipped with kitchen and bathroom facilities; and

(3) any building or structure or complex of buildings or structures constructed under the following sections of the National Housing Act (Pub. L. 73-479) as amended and supplemented: section 202, Housing Act of 1959 (Pub. L. 86-372) and as subsequently amended, and section 231, Housing Act of 1959.

j. "Residential shareholder in a cooperative or mutual housing corporation" means a tenant or holder of a membership interest in that cooperative or corporation, whose residential unit therein constitutes the place of his domicile and his principal residence, and who may deduct real property taxes on his federal income tax return pursuant to section 216 of the Internal Revenue Code of 1954.

k. "Rent constituting property taxes" means 18% of the rent paid by the claimant during the taxable year on a unit of residential rental property which constitutes the claimant's homestead.

C. 54A:3A-3 Deduction for property taxes.

3. (New section) a. Each resident taxpayer under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., shall be allowed a deduction from taxable income for property taxes paid on the taxpayer's homestead, as defined in subsection e. of section 2 of this act, as follows:

If taxable income is:	The deduction is the greater of actual property taxes paid or:
Not over \$20,000.00	\$3,250.00
Over \$20,000.00 but not over \$50,000.00	\$2,600.00
Over \$50,000.00	\$1,857.00

b. A deduction for property taxes shall be allowed pursuant to this section in relation to the amount of the property taxes actually paid by or allocable to a resident taxpayer who is a qualified claimant on more than one homestead, but the aggregate amount of the property taxes claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each homestead for the portion of the taxable year for which the taxpayer occupied it as his principal residence.

c. Where title to a homestead is held by more than one individual as joint tenants or tenants in common, each individual shall be allowed a deduction pursuant to this section only in relation to his proportionate share of the property taxes assessed and levied against the homestead. The proportionate share shall be equal to that of all other individuals who hold the title, but if the conveyance under which the title is held provides for unequal interests therein, a taxpayer's share of the property taxes shall be in proportion to his interest in the title.

d. Where title to a homestead is held by a husband and wife who own the homestead as tenants by the entirety, or where that husband and wife are both residential shareholders of a cooperative or mutual housing corporation and occupy the same homestead therein, and who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., that husband and wife shall each be entitled to one-half of the deduction for property taxes for which they may be jointly eligible pursuant to this section.

e. Where the homestead is a dwelling house consisting of more than one unit, that taxpayer shall be allowed a deduction for property taxes only in relation to the proportionate share of the property taxes assessed and levied against the residential unit occupied by him, as determined by the local tax assessor.

C. 54A:3A-4 Tenant's deduction.

4. (New section) a. Each resident taxpayer whose homestead is a residential rental property as those terms are defined in subsections e. and i., respectively, of section 2 of this act, and who is entitled to a homestead credit for tenants pursuant to N. J. S. 54A:4-3, shall be allowed a deduction from taxable income for that portion of the rent constituting property taxes as defined in subsection k. of section 2 of this act on that homestead as follows:

If taxable income is :	The deduction is the greater of rent constituting property taxes, or :
Not over \$20,000.00	\$1,750.00
Over \$20,000.00 but not over \$50,000.00	\$1,400.00
Over \$50,000.00	\$1,000.00

b. A husband and wife who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., shall each be entitled to one-half of the property tax deduction allowed pursuant to this section.

c. If more than one taxpayer, other than husband and wife, qualify to deduct rent constituting property taxes by reason of their having occupied the same rented homestead, it shall be presumed that the deduction shall be equally divided. A taxpayer may, however, deduct an amount for rent constituting property taxes in the same proportion that the rent paid by that taxpayer bears to the total rent paid by all tenants of the same unit.

C. 54A:3A-5 Partial year provisions.

5. (New section) a. If a taxpayer entitled to a deduction for property taxes under section 3 or 4 of this act has been a resident of this State for less than a full tax year, the amount of the property tax deduction shall be the actual amount of property tax or rent constituting property taxes paid by that taxpayer, notwithstanding the schedule of deductions in section 3 or 4.

b. If a taxpayer entitled to a deduction for property taxes under section 3 or 4 of this act has been a resident of this State for the full tax year for which a deduction is claimed, but his homestead for any part of the tax year has been a residential rental property, the amount of the property tax deduction shall be the sum of the actual amount of property taxes paid and rent constituting property taxes, notwithstanding the schedule of deductions in section 3 or 4.

C. 54A:3A-6 Refund of overpayment.

6. (New section) If the deduction for property taxes or rent constituting property taxes allowed under section 3 or 4 of this act reduces taxable income below zero, then the amount by which the deduction reduces taxable income below zero shall be considered an overpayment of tax and a refund on that amount shall be calculated by applying the tax rate for taxable income below \$20,000.00 as provided in N. J. S. 54A:2-1 to that amount. The result of that calculation shall constitute the amount

of the refund which shall be paid as in the case of other refunds under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq.

C. 54A:3A-7 Claimants of credits for taxes of other states.

7. (New section) a. Any citizen and resident of this State who has paid property taxes or whose homestead is a residential rental property and who is required to file a return under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., and who has claimed a credit for income taxes paid to other states and political subdivisions thereof pursuant to N. J. S. 54A:4-1 shall be entitled to claim a homestead tax refund as provided in section 8 of this act.

b. The amount of the refund allowed in subsection a. of this section may be applied as a credit against any tax liability otherwise due pursuant to N. J. S. 54A:1-1 et seq., and any amount remaining shall be considered an overpayment of the tax and shall be refunded.

c. The amount of the credit allowed in N. J. S. 54A:4-3 shall be applied against any tax liability otherwise due after the credit permitted in N. J. S. 54A:4-1 has been determined and applied and the amount remaining, if any, shall be considered an overpayment of the tax and refunded.

d. Any amount to be refunded under subsections b. and c. shall be combined and refunded in the same manner as any other refund under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq.

C. 54A:3A-8 Homestead tax refund.

8. (New section) a. Any citizen and resident of this State who has paid property taxes on a homestead or whose homestead is a residential rental property but who is not required to file a return under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., shall be entitled to claim a homestead tax refund as provided in this section.

b. The amount of the homestead tax refund for property taxes actually paid on a homestead shall be \$65.00. The amount of the homestead tax refund for rent constituting property taxes shall be \$35.00.

c. No homestead tax refund shall be allowed under this section except upon written application therefor to the Director of the Division of Taxation in a form prescribed by him. The director may require proof and evidence of payment of property taxes or rent constituting property taxes as he determines to be necessary.

d. A homestead tax refund for property taxes shall be allowed pursuant to this section in relation to the amount of the property taxes actually paid by or allocable to an individual who is a qualified claimant on more than one homestead, but the aggregate amount of the property taxes claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each homestead for the portion of the tax year for which the claimant occupied it as his principal residence.

e. Where title to a homestead is held by more than one individual as joint tenants or tenants in common, each individual shall be allowed a homestead tax refund pursuant to this section only in relation to his proportionate share of the property taxes assessed and levied against the homestead. The proportionate share shall be equal to that of all other individuals who hold the title, but if the conveyance under which the title is held provides for unequal interests therein, a claimant's share of the property taxes shall be in proportion to his interest in the title.

f. Where the homestead is a dwelling house consisting of more than one unit, the claimant shall be allowed a homestead tax refund only in relation to the proportionate share of the property taxes assessed and levied against the residential unit occupied by him, as determined by the local tax assessor.

g. A husband and wife shall each be entitled to one-half of the homestead tax refund allowed pursuant to this section.

h. If more than one taxpayer, other than husband and wife, qualify to deduct rent constituting property taxes by reason of their having occupied the same rented homestead, it shall be presumed that the homestead tax refund shall be equally divided. A claimant may, however, apply for a homestead tax refund for rent constituting property taxes in the same proportion that the rent paid by that claimant bears to the total rent paid by all tenants of the same unit.

C. 54A:3A-9 April 15 deadline.

9. (New section) An application for a homestead tax refund under section 8 of this act shall be made on or before April 15 annually for property taxes paid or rent constituting property taxes for the immediately preceding calendar year.

C. 54A:3A-10 Payment of refund.

10. (New section) The homestead tax refund allowed under section 8 of this act shall be considered an overpayment of tax under

the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., and shall be paid as in the case of refunds under that act.

C. 54A:3A-11 Restrictions.

11. (New section) a. No application for a homestead credit refund under section 8 of this act shall be approved if a deduction for actual property taxes or rent constituting property taxes has been taken pursuant to section 3 or 4 of this act.

b. No homestead tax refund allowed in section 8 shall be paid except upon approval by the director of a written application required under subsection c. of section 8 of this act.

C. 54A:3A-12 Supplemental form.

12. (New section) a. The director shall provide a supplemental form to be filed as a part of the form of return required under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., and shall not provide for a separate application for any deduction or refund under section 3, 4 or 7 of this act.

b. The application for a homestead refund pursuant to section 8 of this act shall be in similar form to that prescribed in subsection a. of this section and shall be filed annually on or before April 15; provided, however, that the applicant shall not be required to file the form of return under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., as a part of the application.

C. 54A:3A-13 Addition to other refunds.

13. (New section) Any homestead tax refund allowed under section 3, 4, 7, or 8 shall be paid as in the case of other refunds under the "New Jersey Gross Income Tax Act," N. J. S. 54A:1-1 et seq., and shall be added to any other refunds otherwise due and a single payment made to the taxpayer or claimant.

C. 54A:3A-14 Rules, regulations.

14. (New section) The director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as he deems necessary to administer the provisions of this act.

15. N. J. S. 54A:4-3 is amended to read as follows:

Homestead credit for tenant.

54A:4-3. Homestead credit for tenant. a. Any qualified residential tenant or shareholder in a cooperative, other than residents of a residential cooperative or mutual housing corporation who are entitled to a homestead exemption pursuant to section 1 of P. L. 1976, c. 72 (C. 54:4-3.80), shall be entitled to a homestead credit of \$65.00 against the tax otherwise due hereunder. Any

qualified residential tenant or shareholder in a cooperative not eligible for a homestead exemption shall be entitled to an additional homestead credit of \$35.00 if such resident is (1) permanently and totally disabled, (2) 65 years of age or over, or (3) a surviving spouse of a person qualified under (2) above who has remained unmarried since becoming a widow or widower at the age of 55 years or over.

b. Husband and wife. A married couple who elect to file separate New Jersey returns shall each be entitled to one-half of the credit otherwise allowable under subsection a.

c. Special limitations. (1) If more than one qualified resident tenant, other than a husband and wife, qualify for the credit allowed under this section by reason of their having occupied the same rented homestead, it shall be presumed that the tenant's credit otherwise allowed under this section shall be equally divided among such taxpayers. A tenant, however, may claim a credit which shall bear the same proportion as the rent he pays to the total rent paid by all members of the unit.

(2) A taxpayer shall not be entitled to more than one homestead credit in any one year. A taxpayer who claims a homestead credit under this section may not claim a homestead exemption for the same year under any other law.

(3) The amount of the homestead credit shall be prorated in the proportion that the number of days the qualified tenant occupied residential property in the year bears to 365 days.

(4) Where more than one tenant occupies a single dwelling unit not more than one qualified tenant credit shall be claimed. No tenant homestead credit shall be allowed for occupants of rooming houses, hotels or motels unless the rooms rented to the tenant are equipped with kitchen and bathroom facilities and unless such person is a permanent resident thereof.

d. If the credit against the tax allowed pursuant to subsection a. of this section reduces tax liability to zero, the remaining amount of the credit, if any, shall be considered an overpayment of the tax and shall be refunded.

16. This act shall take effect immediately and shall be applicable with respect to property taxes or rent constituting property taxes paid for tax years commencing on and after January 1, 1985.

Approved August 25, 1985.

CHAPTER 305

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, 1985 and regulating the disbursement thereof,” approved June 29, 1984 (P. L. 1984, c. 58).

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

1. In addition to the sums appropriated under P. L. 1984, c. 58, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID

DEPARTMENT OF HEALTH

Physical and Mental Health

25 Health Administration—State Aid

10-4225	Local Health and Regional Operations . . .	\$4,500,000
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State Aid:

Special Aid to the Children’s Unit, a division of United Hospitals Medical Center	(\$4,500,000)
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2. An amount not to exceed the amount hereinabove appropriated shall be for the purpose of compensating United Hospitals Medical Center for documented costs incurred in the delivery of health care services by the Children’s Unit of United Hospitals Medical Center, during the period January 1, 1982 to the effective date of this act.

3. a. Prior to the disbursement of the funds hereinabove appropriated, the Board of Trustees of the United Hospitals Medical Center shall amend its bylaws to add two board members to be appointed by the Governor as members thereof for a period of two years.

b. No funds shall be disbursed until the Department of Health verifies that the expenses were incurred by the Children’s Unit of the United Hospitals Medical Center in excess of approved revenues established by the Hospital Rate Setting Commission, and until the United Hospitals Medical Center submits a detailed fiscal

management plan to the Department of Health which clearly demonstrates progress toward gradual and systematic fiscal improvement, and eventual fiscal solvency by January 1, 1987.

c. Upon receipt of a certified audit from the United Hospitals Medical Center, the Department of Health shall have 90 days to verify the debt.

4. This act shall take effect immediately.

Approved August 27, 1985.

CHAPTER 306

AN ACT concerning designation of a children's hospital and supplementing P. L. 1971, c. 136 (C. 26:2H-1 et seq.).

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

1. The Legislature finds and declares that:

a. Children's Hospital of New Jersey, a unit of United Hospitals Medical Center in Newark, New Jersey, is the only acute care facility in the State that is committed exclusively to the provision of diagnostic and specialty treatment services for children and is the major pediatric training facility for medical students from the University of Medicine and Dentistry of New Jersey;

b. The children treated at Children's Hospital of New Jersey tend to be the most severely ill children in the State and are often referred to the hospital from other facilities when those facilities are unable to provide the needed specialized or critical care a child needs and, consequently, the case-mix at Children's Hospital of New Jersey is unique in the State;

c. The comprehensive array of specialized health care services provided at Children's Hospital of New Jersey, the intensity of care needed by seriously ill children and the subsequent longer lengths of stay serve to differentiate Children's Hospital of New Jersey from other acute care hospitals in the State;

d. It is in the best interest of the children of New Jersey that the State designate and support an acute care specialty hospital which is dedicated exclusively to the care of children.

C. 26:2H-18a Specialty acute care children's hospital.

2. The Commissioner of Health shall designate Children's Hospital of New Jersey, a unit of United Hospitals Medical Center, as the State's specialty acute care children's hospital.

C. 26:2H-18b Reimbursement rates.

3. The Commissioner of Health shall provide for adequate and appropriate reimbursement rates for Children's Hospital of New Jersey pursuant to P. L. 1971, c. 136 (C. 26:2H-1 et seq.). The commissioner shall develop the reimbursement rates for Children's Hospital of New Jersey in accordance with the reimbursement rates for children's hospitals developed by the federal Department of Health and Human Services and the National Association of Children's Hospitals and Related Institutions.

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

5. This act shall take effect immediately.

Approved August 27, 1985.

CHAPTER 307

AN ACT establishing a personal attendant demonstration program, supplementing Title 30 of the Revised Statutes and making an appropriation therefor.

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

C. 30:4G-1 Short title.

1. This act shall be known and may be cited as the "Personal Attendant Act."

C. 30:4G-2 Definitions.

2. For the purposes of this act:

a. "Chronic physical disability" means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance in order to maintain the person's independence and health.

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

c. "Department" means the State Department of Human Services.

d. "Personal attendant" means a person who meets the qualifications regarding training, equivalent work experience or certification in the home health field, established by the commissioner and who provides personal attendant services to an eligible person.

e. "Personal attendant services" means health and chore related tasks performed by a personal attendant in an eligible person's home and, if necessary, under the supervision of a registered professional nurse. Personal attendant services includes, but is not limited to, assistance in: essential daily activities such as bathing, dressing and meal preparation; assistance with mobility, laundry and shopping; and driving or transportation to and from the eligible person's place of employment.

C. 30:4G-3 Personal attendant demonstration program.

3. The Commissioner of Human Services shall establish a personal attendant demonstration program in the Department of Human Services to be administered by an agency designated by the commissioner. The program shall provide adults with chronic physical disabilities with regular help in carrying out routine, nonmedical tasks that are directly related to maintaining their health and independence. The program will lessen the need for institutional care and thereby enable these persons to remain in their homes and communities and to be employed or to receive training or education geared toward employment.

C. 30:4G-4 Eligibility.

4. A person with a chronic physical disability who is between 18 and 65 years of age and is a resident of this State is eligible for the personal attendant program if:

a. The person is in need of personal attendant services pursuant to a written plan of personal attendant services prepared by a social worker and a registered professional nurse in a collaboration with the person who shall receive the services.

b. A relative or other informal care giver is not available or not appropriate to provide the needed services;

c. The person lives in a private home or apartment, rooming or boarding house or residential health care facility, and the personal attendant services the person shall receive are supplemental to

and not duplicative of the services provided pursuant to the licensure requirements, if any, of the facility in which the person lives;

d. The person is self-directed and requires no assistance in the coordination of therapeutic regimes which have been ordered by the person's physician; and

e. The person requires not less than 10 hours or not more than 40 hours of personal attendant services per week.

C. 30:4G-5 Implementation by counties.

5. a. The personal attendant demonstration program shall be implemented in those counties which have established county offices for the handicapped as of January 1, 1985.

b. Each county office for the handicapped or other agency designated by the commissioner is authorized to establish and maintain a personal attendant services caseload of 25 chronically physically disabled persons, pursuant to this act.

C. 30:4G-6 Evaluation, services plan.

6. a. Within 30 days after a person has applied for services under the personal attendant program, a member of the staff of the county office for the handicapped or other agency designated by the commissioner in the county in which the applicant resides shall perform a financial and social evaluation of the applicant to determine if the applicant meets the eligibility criteria pursuant to section 4 of this act. The county office for the handicapped or other agency designated by the commissioner shall provide the applicant with written notification about the findings of the evaluation.

b. If the applicant is eligible, a social worker and registered professional nurse, who are designated by the director of the county office for the handicapped or other agency designated by the commissioner, shall prepare a personal attendant services plan designed to meet the applicant's specific social, health and personal care needs, using the evaluation as a basis for the plan. The social worker and registered professional nurse shall prepare the plan with the participation of the applicant.

c. The plan shall include a list of personal attendant services that shall be provided pursuant to the plan; an estimate of the frequency and duration of the services; an estimate of the total cost of the plan; and a statement of the percentage or amount of money an eligible person or an eligible person's immediate family

is required to contribute toward the cost of services provided under the plan, pursuant to section 8 of this act. The social worker and registered professional nurse shall revise the plan as frequently as necessary, but they shall perform a comprehensive re-assessment of the eligible person annually.

d. The plan shall not be implemented until the eligible person approves the plan in writing.

e. If a dispute arises between the eligible person and the county office for the handicapped or other agency designated by the commissioner with regard to eligibility for services or the personal attendant services plan, the applicant may request a hearing that shall be conducted pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

f. The evaluation and services plan shall be completed on forms prescribed by the commissioner.

C. 30:4G-7 Contracts; fee schedule.

7. a. A county office for the handicapped or other agency designated by the commissioner may contract with other services providers, including private individuals, for personal attendant services provided pursuant to this act. The contracting shall be pursuant to the regulations promulgated by the commissioner.

b. The commissioner shall establish a fee schedule for payments or reimbursements to personal care services providers.

C. 30:4G-8 Sliding fee scale.

8. a. The commissioner shall establish a sliding fee scale based on the eligible person's or the eligible person's immediate family's ability to pay for personal attendant services; except that no eligible person or eligible person's immediate family shall have to pay more than 75% of the cost of the personal attendant services provided pursuant to this act.

b. The sliding fee scale shall apply only to those eligible persons and their immediate families whose annual gross income exceeds the State's current applicable income eligibility level for social services established pursuant to the "Social Services Block Grant Act," Pub. L. 97-35 (42 U.S.C. § 1397 et seq.).

c. If an eligible person's personal attendant services costs are covered in whole or in part by any other State or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the personal attendant program shall be the secondary power.

d. The eligible person receiving services shall sign weekly vouchers attesting to the hours of services rendered. The personal attendant shall then be paid directly by the department.

C. 30:4G-9 Administrative expense limit.

9. The department shall not use more than 15% of the amounts appropriated for the personal attendant program for administrative and staff costs.

C. 30:4G-10 Advisory council.

10. a. There is established in the department an Advisory Council on Personal Attendant Services which consists of 17 members as follows: the Commissioner of Health, the Director of the Division of Medical Assistance and Health Services and the Director of the Division of Veterans Programs and Special Services in the Department of Human Services, and the Director of the Division of Vocational Rehabilitation Services in the Department of Labor, or their designees, who shall serve ex officio, and 13 members appointed by the commissioner who are residents of this State, one of whom is a member of the New Jersey Association of County Representatives of Disabled Persons, four of whom represent providers of personal attendant services, five of whom represent consumers of personal attendant services and three of whom represent advocacy groups for the physically disabled.

A vacancy in the membership of the council shall be filled in the same manner as the original appointment.

The members of the council shall serve without compensation, but the department shall reimburse the members for the reasonable expenses incurred in the performance of their duties.

b. The council shall hold an organizational meeting within 30 days after the appointment of its members. The members of the council shall elect from among them a chairman who shall be the chief executive officer of the council and the members shall elect a secretary who need not be a member of the council.

c. The council shall:

(1) Advise the commissioner on matters pertaining the personal attendant services and the development of the personal attendant program, upon the request of the commissioner.

(2) Review the rules and regulations promulgated for the implementation of the personal attendant program and make recommendations to the commissioner, as appropriate;

(3) Evaluate the effectiveness of the personal attendant program in achieving the purposes of this act; and

(4) Assess the Statewide need for personal attendant services and the projected cost for providing these services Statewide.

C. 30:4G-11 Report.

11. The commissioner shall report to the Governor and the Legislature one year from the date of enactment of this act concerning:

a. The effects of the demonstration program on enabling persons with chronic physical disabilities to remain in their homes and communities and to be employed or receive training or education geared toward employment;

b. An assessment of the most efficient and effective method for providing personal attendant services;

c. The projected costs for establishing a Statewide personal attendant program; and

d. Recommendations for permanently establishing a Statewide personal attendant program.

C. 30:4G-12 Rules, regulations.

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

13. There is appropriated \$2,000,000.00 from the General Fund to the Department of Human Services for the purposes of this act.

14. This act shall take effect on the 90th day following enactment.

Approved August 27, 1985.

CHAPTER 308

AN ACT concerning the investment of certain public funds.

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

C. 52:18A-89.1 Ban on South African investments.

1. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of

the Division of Investment in the Department of the Treasury shall be invested in any bank or financial institution which directly or through a subsidiary has outstanding loans to the Republic of South Africa or its instrumentalities, and no assets shall be invested in the stocks, securities or other obligations of any company engaged in business in or with the Republic of South Africa.

C. 52:18A-89.2 Divestiture over 3 years.

2. The State Investment Council and the Director of the Division of Investment shall take appropriate action to sell, redeem, divest or withdraw any investment held in violation of the provisions of this act. Nothing in this act shall be construed to require the premature or otherwise imprudent sale, redemption, divestment or withdrawal of an investment, but such sale, redemption, divestment or withdrawal shall be completed not later than three years following the effective date of this act.

C. 52:18A-89.3 Progress reports.

3. Within 30 days after the effective date of this act, the Director of the Division of Investment shall file with the Legislature a list of all investments held as of the effective date of this act which are in violation of the provisions of this act. Every three months thereafter, and until all of these investments are sold, redeemed, divested or withdrawn, the director shall file with the Legislature a list of the remaining investments. The director shall include with the first such list, and with the lists to be filed at six month intervals thereafter, a. a report of the progress which the division has made since the previous report and since the enactment of this act in implementing the provisions of section 2 of this act, and b. an analysis of the fiscal impact of the implementation of those provisions upon the total value of and return on the investments affected, taking all possible account of the investment decisions which would have been made had this act not been enacted, and including an assessment of any increase or decrease, as the result of the implementation of those provisions and not as the result of market forces, in the overall investment quality and degree of risk characteristic of the pension and annuity funds' portfolio.

4. This act shall take effect immediately.

Approved August 27, 1985.

CHAPTER 309

AN ACT concerning certain investments in the African Development Bank under certain circumstances and amending N. J. S. 17B:20-1 and P. L. 1947, c. 308.

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

1. N. J. S. 17B:20-1 is amended to read as follows:

Authorized investments by insurers.

17B:20-1. Any domestic insurer may invest its capital, surplus and other funds, or any part thereof, in:

a. Bonds, notes, or other evidences of indebtedness or public stock issued, created, insured or guaranteed by the United States, any territory or possession thereof, this or any other State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada, or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing.

b. Real estate which may be improved or which is unimproved but acquired in accordance with a definite plan for development within not more than five years, and in the improvement, development, operation or leasing thereof; provided, that if the commissioner shall determine that the interest of such insurer's policyholders requires that any specific real estate so acquired be disposed of, then such insurer shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, that the sum of (1) the aggregate amount invested in such real estate (including real estate held pursuant to section 17B:18-45 of this Title) and (2) the aggregate amount invested in capital stock of any subsidiary of the insurer pursuant to section 17B:20-4, engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate, shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding. Real estate used primarily for agricultural, horticultural, ranching, mining, forestry or recreational purposes shall be deemed improved within the meaning of this subsection b. The term "real estate" as used in this chapter shall include any real property and any interest therein, including, with-

out limitation, any interest on, above or below the surface of the land, any leasehold estate therein, and any such interest held or to be held by the insurer in cotenancy with one or more other persons and any partnership interest held by the insurer in any general or limited partnership engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate. Income produced by investment in any such leasehold shall be applied in a manner calculated to amortize the amount invested in such leasehold within a period not exceeding eight-tenths of the unexpired term of the leasehold, inclusive of enforceable options, or within 40 years, whichever is the lesser, or where the peculiar nature of the leasehold involved so dictates, within such period and subject to such other reasonable limitations as the commissioner shall by regulation impose. For the purposes of this subsection b., a mortgage loan shall not be deemed to be an investment in real estate, notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner, or otherwise. The commissioner may promulgate a regulation in connection with investments under this subsection b. which shall, as far as practicable, be consistent with those regulations of the department which treat with securities supported by such interests in real estate.

c. Mortgage loans on unencumbered real estate, located within the United States, any territory or possession thereof, the Commonwealth of Puerto Rico or Canada. The amount of any such loan shall not exceed 80% of the value of the real estate mortgaged unless (1) the loan is also secured by the mortgagor's interest in a lease or leases whose aggregate rentals shall be sufficient, after payment of operating expenses and fixed charges, to repay 90% of the loan with interest thereon during the initial term or terms of such lease or leases and shall be payable directly or indirectly by any governmental units, instrumentalities, agencies or political subdivisions or an institution or institutions which meet the credit standards of the insurer for an unsecured loan to such institution or institutions or (2) the loan is secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this Title or (3) the excess over such 80% is insured or guaranteed or to be insured or guaranteed by the United States, any territory or possession thereof, this or any other State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada

or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing. Any mortgage loan so insured or guaranteed or to be insured or guaranteed shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be charged or taken upon any such loan.

Any such insurer may hold a participation in any such mortgage loan if (1) such participation is senior and gives the holder substantially the rights of a first mortgagee or (2) the interest of such insurer in the evidence or evidences of indebtedness is of equal priority, to the extent of such interest, with other interests therein.

Any such mortgage loan which exceeds two-thirds of the value of the real estate mortgaged shall provide for such payments of principal, whatever the period of the loan, that at no time during the period of the loan shall the aggregate payments of principal theretofore required to be made under the terms of the loan be less than would have been necessary to reduce the loan to two-thirds of such value by the end of 35 years through payments of interest only for five years and equal payments applicable first to interest and then to principal at the end of each year thereafter. The commissioner may promulgate such supplemental regulations as he deems necessary with regard to particular classes of such investments, taking into consideration the type of security and the ratio of the loan to the value of the real estate mortgaged. No loan may be made on leasehold real estate unless the terms of such loan provide for payments to be made by the borrower on the principal thereof in amounts sufficient to completely repay the loan within a period not exceeding nine-tenths of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made.

Real estate shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, or encumbrances that do not adversely affect the salability of the property to a material extent or as to which the insurer is insured against loss by title insurance, or any prior mortgage or mortgages held by such insurer if the aggregate of the mortgages held shall not exceed the amount hereinbefore set forth, nor when such real estate is subject to lease in whole or in part; provided, that the security created by the mortgage on such real estate is a first lien thereon. Real estate

shall not be deemed to be encumbered and the security of the mortgage thereon shall be deemed a first lien within the meaning of this subsection c., notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner or otherwise.

No such insurer shall, pursuant to this subsection c., invest more than 2% of its total admitted assets as of December 31 next preceding in any mortgage loan secured by any one property, nor shall its total mortgage investments pursuant to this subsection c., exclusive of any mortgage loans secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this Title or insured or guaranteed or to be insured or guaranteed as hereinbefore provided, exceed 50% of such admitted assets.

d. Tangible personal property, equipment trust obligations or other instruments evidencing an ownership interest or other interest in tangible personal property where there is a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such personal property, provided, that the aggregate of such payments, together with the estimated salvage value of such property at the end of its minimum useful life and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that the aggregate net investments therein shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding; or certificates of receivers of any institution where such purchase is necessary to protect an investment in the securities of such institution theretofore made under authority of this chapter; or the capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness issued, assumed or guaranteed by any institution created or existing under the laws of the United States, any territory or possession thereof, this or any other State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof; provided, that no purchase of any evidence of indebtedness which is in default as to interest shall be made by such insurer unless such purchase is necessary to protect an investment theretofore made under statutory authority.

The term "institution" as used in this chapter shall include any corporation, joint stock association, business trust, business joint venture, business partnership, savings and loan association, credit union or other mutual savings institution. No purchase shall be made of the stock of any class of any corporation, except a subsidiary of the insurer pursuant to section 17B:20-4, unless (1) such corporation has paid cash dividends on such class of stock during each of the past five years preceding the time of purchase or (2) such corporation shall have earned during the period of such five years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period averaging 4% per annum computed upon the par value (or in the case of stock having no par value, upon the stated capital in respect thereof) of such stock. In the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise less than five years prior to such purchase, each consecutive year next preceding the effective date of such merger, consolidation or acquisition during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each of such years; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made by any insurer except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurers.

e. Securities, properties and other investments in foreign countries, in addition to those specified in section 17B:20-5, which are substantially of the same character as prescribed for authorized investments for funds of the insurer under the preceding subsections of this section, to an amount valued at cost, not exceeding in the aggregate at any one time 2% of the total admitted assets of such insurer as of December 31 next preceding; provided, however, that the amount invested in authorized investments in any

one foreign country pursuant to this subsection e. shall not exceed in the aggregate, at any one time, 1% of such admitted assets. For the purposes of this subsection e., Canada shall not be deemed to be a foreign country.

f. Bonds, notes, or other evidences of indebtedness, issued, insured or guaranteed or to be insured or guaranteed by the International Bank for Reconstruction and Development, or by the Inter-American Development Bank, or by the Asian Development Bank, or by the African Development Bank, except that no funds invested in obligations issued, insured or guaranteed by the African Development Bank shall be used in or shall go to South Africa.

g. Collateral loans secured by a pledge of capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness qualified or permitted for investment under any of the preceding subsections of this section. The amount of any such loan shall not exceed 80% of the market value of the security pledged at the date of the loan.

h. Loans or investments which are not qualified or permitted under any of the preceding subsections of this section or which are not otherwise expressly authorized by law; provided, that the aggregate amount of such loans and investments, valued at cost, shall not exceed at any one time 5% of the total admitted assets of such insurer as of December 31 next preceding.

For the purposes of subsection c. and this subsection h., the portion of a mortgage loan on unencumbered real estate which does not exceed 80% of the value of the real estate mortgaged shall be deemed to be a permitted investment under subsection c. and the remainder of said loan may be deemed to be made under this subsection h. Any investment originally made under this subsection h. which would subsequently, if it were being made, qualify as a permitted investment under another subsection of this section shall thenceforth be deemed to be a permitted investment under such other subsection.

2. Section 1 of P. L. 1947, c. 308 (C. 17:2-9.3) is amended to read as follows:

C. 17:2-9.3 Investments in international banks.

1. The following may, in addition to other investments allowed by law, properly and legally invest any funds, including capital, belonging to them or within their control in obligations issued or guaranteed by the International Bank for Reconstruction and Development, or by the Inter-American Development Bank or the

Asian Development Bank or the African Development Bank; that is to say:

(a) Insurance companies, insurance associations, and all other persons carrying on an insurance business.

(b) Executors, administrators, guardians, committees, conservators, liquidators, rehabilitators, receivers, trustees, and all other persons occupying similar fiduciary positions.

(c) Banks, trust companies, bankers and savings banks.

(d) Savings and loan, and building and loan associations, investment companies, and other financial institutions.

(e) Credit unions, cemetery associations, mutual benevolent and benefit associations.

(f) Firemen's, police, and teachers' association pension and relief funds.

(g) Other pension, retirement, compensation, and sinking fund systems.

(h) The State and its counties, and municipalities and their subdivisions and agencies.

(i) All public officers, officials, boards, commissions, bodies and agencies of the State and its counties, and municipalities and their subdivisions and agencies.

(j) Any other individual, firm, group, corporation, association, institution, and fund of any nature whatsoever.

In the case of investments in obligations issued or guaranteed by the African Development Bank, no funds shall be used in or shall go to South Africa.

3. This act shall take effect immediately.

Approved August 27, 1985.

CHAPTER 310

A SUPPLEMENT to the "Pinelands Protection Act," approved June 28, 1979 (P. L. 1979, c. 111; C. 13:18A-1 et seq.), and making an appropriation.

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

C. 13:18A-30 Short title.

1. This act shall be known and may be cited as the "Pinelands Development Credit Bank Act."

C. 13:18A-31 Findings, declarations.

2. The Legislature finds and declares that, pursuant to the provisions of P. L. 1979, c. 111 (C. 13:18A-1 et seq.), the comprehensive management plan for the pinelands area has been adopted and is now being implemented; that this plan includes a program for the allocation and transfer of pinelands development credits; and that the intent of the pinelands development credit program is to provide a mechanism to facilitate both the preservation of the resources of this area and the accommodation of regional growth influences in an orderly fashion.

The Legislature further finds and declares that the concept of transferable development credits is innovative and, as yet, unprecedented on a regional scale; that in order to realize the full measure of the benefits of such a program, steps must be taken to assure the marketability of these credits; and that the best means of providing this assurance is through the establishment of a Pinelands Development Credit Bank empowered to purchase and sell pinelands development credits and to guarantee loans secured thereby, all as hereinafter provided.

C. 13:18A-32 Definitions.

3. As used in this act:

- a. "Applicant" means a person applying for, or in receipt of, a loan secured pursuant to the provisions of this act;
- b. "Bank" means the Pinelands Development Credit Bank established pursuant to section 4 of this act;
- c. "Board" means the Board of Directors of the Pinelands Development Credit Bank;
- d. "County bank" means a public body established pursuant to section 14 of this act;
- e. "County board" means the board of directors of the county development credit bank;
- f. "Lender" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company authorized to transact business in the State;
- g. "Pinelands development credit guarantee" means a guarantee extended pursuant to section 9 of this act;

h. "Pinelands development credit" means a transferable development right created pursuant to the comprehensive management plan.

C. 13:18A-33 Pinelands Development Credit Bank.

4. a. There is established in the Executive Branch of the State Government a public body corporate and politic, with corporate succession, to be known as the Pinelands Development Credit Bank. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the bank is allocated within the Department of Banking, but notwithstanding that allocation, the bank shall be independent of any supervision or control by the department or by an officer or employee thereof, except as otherwise expressly provided in this act. The bank is constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the bank of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The bank shall be governed by a board of directors consisting of five ex officio members, or the designees thereof, as follows: the Commissioner of Banking, who shall serve as chairman; the Secretary of Agriculture; the Attorney General; the Commissioner of Environmental Protection; and the Chairman of the Pinelands Commission; and four members, each of whom shall be a resident of counties in the pinelands area, two to be appointed by the Governor upon the recommendation of the President of the Senate, and two to be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. Designees of the five ex officio members shall have the power to vote in the absence of members.

C. 13:18A-34 Powers of board.

5. The board shall have the following powers:

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

b. To adopt and use an official seal and alter the same at its pleasure;

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

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

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

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

g. To purchase pinelands development credits to further the objectives of P. L. 1979, c. 111 (C. 13:18A-1 et seq.) or when necessary to alleviate hardship, as determined pursuant to rules and regulations adopted by the board. The purchase price in these cases shall be not less than \$10,000.00 per credit, or a fraction of that amount which reflects that portion of a pinelands development credit allocated to the applicant pursuant to the provisions of the comprehensive management plan. The board may periodically increase the purchase price; provided that its action does not substantially impair the private sale of pinelands development credits. In no case shall the purchase price be greater than 80% of the market value of pinelands development credits, as determined by the board.

C. 13:18A-35 Development credit certificates.

6. The board shall, upon application of the appropriate landowner, and certification by the commission, issue Pinelands Development Credit Certificates for all pinelands development credits allocated pursuant to the comprehensive management plan. These certificates shall be issued to the current owner of record of the land with marketable title, verified by a 60 year search, who is legally empowered to restrict the use of the property in conformance with the comprehensive management plan, as indicated in the index of deeds recorded in the office of the recording officer of the appropriate county, subsequent to the recording of deed restrictions imposed on the use of that land pursuant to the comprehensive management plan.

C. 13:18A-36 Registry of development credits.

7. a. The board shall establish and maintain a Registry of Pinelands Development Credits, which shall include:

(1) The name and address of every owner to whom a pinelands development credit certificate is issued pursuant to section 6 of this act, the date of its issuance, the municipal tax lot and block identification of the parcels of land to which the pinelands development credit has been assigned, the number of pinelands development credits or fraction thereof assigned to each parcel, the total number

of pinelands development credits assigned, and the total acreage to which pinelands development credits have been assigned;

(2) The name and address of every person to whom a pinelands development credit is sold or otherwise conveyed, the date of the conveyance, and the consideration, if any, received therefor;

(3) The name and address of any person who has pledged a pinelands development credit as security on any loan or other obligation, the name and address of the lender, and the date, amount and term of the loan or obligation;

(4) The name and address of any person who has redeemed a pinelands development credit, the location of the land to which the credit was transferred, and the date this redemption was made; and

(5) An annual enumeration of the total number of pinelands development credits purchased and transferred, listing the municipality in which the land for which each pinelands development credit was issued is located, and the municipality to which the pinelands development credit was transferred.

b. No person shall purchase or otherwise acquire, encumber, or redeem any pinelands development credit without recording that fact, within 10 business days thereof, with the bank.

c. The board shall make available in the form of an annual report the information included in the registry to each county and municipality located in whole or in part in the pinelands area, and, upon request, pertinent information to any other person. The first annual report shall be submitted to the Governor and Legislature and shall be made available to the public on the first anniversary of the effective date of this act.

C. 13:18A-37 Application for guarantee.

8. Any person desiring to secure a loan using a pinelands development credit as collateral may apply to the board for determination of eligibility for a pinelands development credit guarantee. The board shall notify the applicant of its decision within 30 days of its receipt of the application.

C. 13:18A-38 Approval by board.

9. a. The board may extend a pinelands development credit guarantee with respect to any loan secured pursuant to the provisions of this act if:

(1) Adequate funds are available in reserve to fulfill the guarantee in the event of a default; and

(2) The applicant can demonstrate that he holds marketable title to the property and that the property has been certified by

the commission as eligible for issuance of pinelands development credit certificates pursuant to the provisions of this act, that the owner is legally empowered to restrict the use of the property in conformance with the comprehensive management plan, that this credit has not been otherwise encumbered, transferred or redeemed, and that the credit shall be pledged as security for the guarantee.

b. If the application is denied, the board shall return it to the applicant with a written statement of the reasons for denial.

c. If the application is approved, the board shall retain the original and transmit copies of the application to the applicant and the lender. The applicant and the lender may then complete the transaction for the loan. Nothing herein contained shall be construed to require a lender to approve or deny any loan applied for pursuant to this act, regardless of the approval or disapproval by the board of any application for a pinelands development credit guarantee.

C. 13:18A-39 \$10,000 guarantee minimum.

10. The bank is authorized to guarantee the value of a pinelands development credit in an amount not less than \$10,000.00, or a fraction of that amount which reflects that portion of a pinelands development credit allocated to the applicant pursuant to the provisions of the comprehensive management plan, provided that the value upon which the guarantee is made may be adjusted in accordance with the provisions of section 5 of this act. Nothing herein contained shall be construed to establish or limit fair market value of any pinelands development credit or to preclude the extension of a pinelands development credit guarantee for any loan of less than \$10,000.00.

C. 13:18A-40 Default.

11. a. Following the 31st day of a default on any loan secured, in whole or in part, by a pinelands development credit guarantee, the lender shall send notice by certified mail to the applicant and the board, stating the consequences of his default. The applicant and the lender may, within 90 days of the initial default, agree to take any reasonable steps to assure the fulfillment of the loan obligation.

b. In the event the applicant and the lender have not made arrangements for the continuation of the loan obligation within 90 days of the initial default, the lender shall file a claim with the board, identifying the loan and the nature of the default and shall: (1) assign the security interest in the pinelands development credit to the board in exchange for payment according to the terms of

pinelands development credit guarantee; or (2) retain the security interest in the pinelands development credit and waive any claim to payment pursuant to the terms of the pinelands development credit guarantee.

C. 13:18A-41 Payment of guaranteed amount.

12. In the event a default occurs on any loan secured, in whole or in part, by a pinelands development credit guarantee and the lender has assigned the security interest in the pinelands development credit to the board, the board shall authorize payment to the lender up to the limits of the pinelands development credit guarantee, and shall notify the defaulting party. The board shall, in these cases, take all appropriate action to secure its interest in the pinelands development credit.

C. 13:18A-42 Sales by board of credits.

13. a. The board may sell, exchange, or otherwise convey or retire any pinelands development credit which is purchased or otherwise acquired pursuant to the provisions of this act. All sales, exchanges, conveyances or retirements shall be made prior to the expiration of this act. The provisions of any other law to the contrary notwithstanding, no such sale, exchange, conveyance or retirement shall be subject to approval of the State House Commission.

b. When the board sells, exchanges, or otherwise conveys or retires a pinelands development credit, it shall do so in a manner which shall not substantially impair the private sale of pinelands development credits. The board may convey a pinelands development credit without remuneration for use in projects that satisfy a compelling public purpose only by an affirmative vote of two-thirds of its members.

C. 13:18A-43 County banks.

14. a. The governing body of any county located in whole or in part within the pinelands area may, by resolution duly adopted, create a public body to carry out the functions of the bank created herein within the jurisdiction of the county with all or any significant part of the name of the county inserted. The county bank shall be governed by a board of directors consisting of five members, appointed by the board of chosen freeholders, or, in the counties operating under the county executive plan or county supervisor plan pursuant to the provisions of the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A-1 et seq.), by the county executive or the county supervisor, as the case may be, with the advice and consent of the board of chosen freeholders.

b. The members of the county board shall be appointed from among residents of the county with substantive experience in agriculture, banking and finance, land use regulation, and the law. Nothing contained herein shall be construed to preempt a county from carrying out functions substantially similar to those described and authorized herein exclusive of any State assistance.

C. 13:18A-44 Delegation of authority to county.

15. The board may delegate any authority granted it by this act to any county which creates a county board pursuant to the provisions of this act if:

- a. The commission has approved the master plan for the county;
- b. The governing body of the county has requested that this delegation be made; and
- c. The governing body of the county can demonstrate that it has the financial resources necessary to meet the obligations of this delegation.

C. 13:18A-45 Matching grants.

16. If the board has delegated its authority pursuant to the provisions of section 15 of this act, it may provide, upon application therefor and approval thereof, matching grants to the county bank for the purpose of meeting the obligation of this delegation. These grants may be applied retroactively to January 14, 1981.

C. 13:18A-46 Exercise of authority.

17. The county board shall exercise the authority delegated to it by the board in a manner prescribed by rules and regulations adopted by the board.

C. 13:18A-47 \$5,000,000 appropriation.

18. a. There is appropriated to the bank, from the General Fund, the sum of \$5,000,000.00. This sum shall be used for the purchase of pinelands development credits and to extend pinelands development credit guarantees, as herein provided.

b. The proceeds from the sale of pinelands development credits by the board or a county board shall remain available to the board or county board for the purposes of this act. Not more than five days after the 15th anniversary of the effective date of this act the board shall transfer to the General Fund all funds remaining on deposit in the bank. The board may transfer part or all of the funds on deposit in the bank to the General Fund prior to this date upon the affirmative vote of two-thirds of the members of the board.

c. On the 15th anniversary of the effective date of this act a county board shall transfer to the board that percentage of the

funds remaining on deposit in the county bank which reflects the percentage of the matching grant made by the board to the county board pursuant to section 16 of this act.

C. 13:18A-48 5-year program.

19. Notwithstanding any other provisions of this act:

a. No pinelands development credit guarantee shall be extended for a period of time in excess of five years;

b. No pinelands development credit guarantee shall be extended after December 31 in the fifth year next following enactment of this act;

c. No pinelands development credit shall be purchased by the bank after December 31 in the fifth year next following enactment of this act.

If the board has delegated its authority pursuant to section 15 of this act, the time period shall begin on the date of that delegation.

C. 13:18A-49 County authority unimpaired.

20. Nothing in this act shall be construed to prohibit or in any other way interfere with any county carrying out functions substantially similar to those described and authorized herein, exclusive of State financial assistance.

21. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 311

AN ACT making it an offense to offer or serve alcoholic beverages to an underage person 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:33-17 Offering alcoholic beverages to underaged.

1. Anyone who purposely or knowingly offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices that person to drink an alcoholic beverage is a disorderly person. This section shall not

apply to a guardian or to a first cousin or closer relative by blood, marriage or adoption of the person under legal age for consuming alcoholic beverages if the guardian or relative is of the legal age to consume alcoholic beverages or to a religious observance, ceremony or rite. This section shall also not apply to any person in his home who is of the legal age to consume alcoholic beverages who offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices that person to drink an alcoholic beverage in the presence of and with the permission of the guardian or first cousin or closer relative by blood, marriage or adoption of the person under the legal age for consuming alcoholic beverages if the guardian or relative is of the legal age to consume alcoholic beverages.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 312

AN ACT directing the New Jersey Highway Authority to designate the plaza in front of the Garden State Arts Center as the "Count Basie Plaza."

WHEREAS, William "Count" Basie was born on August 21, 1904 in Red Bank, New Jersey; and

WHEREAS, Count Basie received very little formal musical training, but acquired most of his skill through practice and exposure to other great jazz musicians; and

WHEREAS, After graduation from high school, Count Basie worked as a musician with Elmer Snowden's band, June Clark and Leroy's band in Harlem, all of which helped develop his unique style and technique; and

WHEREAS, Count Basie began his musical career as a honky-tonk piano player for vaudeville acts, working under the tutelage of "Fats" Waller, the organist who played for the silent movie at Harlem's Lincoln Theater; and

WHEREAS, Through Fats Waller, Count Basie adopted many stylistic tricks of the Harlem-vaudeville stride pianists; and

WHEREAS, Eventually Count Basie left New York and went to Kansas City which was a center of night life for a large area of the Southwest; and

WHEREAS, In his years in Kansas City, Count Basie created the style for which he is still known, using simple melodic phrases, with relatively few notes to create the mood and tenor of the song to come; and

WHEREAS, Count Basie also became known for his happy keyboard, finishing each song or rendition with his own special ending that was always a light, lilting melody; and

WHEREAS, His personality and remarkable rhythmic swing made "the Count" the last great pianist-bandleader of the swing era to gain popularity; and

WHEREAS, The Count's accomplishments are ones of which all New Jerseyans may be proud; now, therefore,

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

C. 27:12B-5.1a Count Basie Plaza.

1. The New Jersey Highway Authority is directed to designate the plaza in front of the Garden State Arts Center as the "Count Basie Plaza" and to display a plaque with that designation.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 313

AN ACT concerning judges of the Superior Court in certain counties and amending N. J. S. 2A:2-1.

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

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

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 333 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	7
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	18
Hunterdon	2
Mercer	8
Middlesex	18
Monmouth	12
Morris	11
Ocean	10
Passaic	14
Salem	2
Somerset	5
Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 314

A SUPPLEMENT to the "sewerage authorities law," approved April 23, 1946 (P. L. 1946, c. 138, C. 40:14A-1 et seq.).

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

C. 40:14A-7.3 Interest on deposits with sewerage authorities.

1. Whenever a sewerage authority requires a person to deposit an amount of money exceeding \$5,000.00 for professional services employed by the sewerage authority, for sewerage authority inspection fees or to satisfy any performance or maintenance guarantee requirements, the money, until repaid or applied to the purposes for which it is deposited, including the person's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the person and shall be held in trust by the sewerage authority. Money deposited shall be held in escrow. The sewerage authority receiving the money shall deposit it in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at a minimum at the rate currently paid by the institution or depository on time or savings deposits. The sewerage authority shall notify the person in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The sewerage authority shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, that entire amount shall belong to the person and shall be refunded to him by the authority annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the sewerage authority may retain for administrative expenses a sum equivalent to no more than 33 $\frac{1}{3}$ % of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

The provisions of this act shall apply only to that interest earned and paid on a deposit after the effective date of this act.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 315

AN ACT concerning the interest paid on certain deposits and supplementing P. L. 1975, c. 291 (C. 40:55D-1 et seq.) and P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

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

C. 40:55D-53.1 Interest on deposits with municipalities.

1. Whenever an amount of money in excess of \$5,000.00 shall be deposited by an applicant with a municipality for professional services employed by the municipality to review applications for development, for municipal inspection fees in accordance with subsection h. of section 41 of P. L. 1975, c. 291 (C. 40:55D-53) or to satisfy the guarantee requirements of subsection a. of section 41 of P. L. 1975, c. 291 (C. 40:55D-53), the money, until repaid or applied to the purposes for which it is deposited, including the applicant's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the applicant and shall be held in trust by the municipality. Money deposited shall be held in escrow. The municipality receiving the money shall deposit it in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The municipality shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The municipality shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, that entire amount shall belong to the applicant and shall be refunded to him by the municipality annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the municipality may retain for administrative expenses a sum equivalent to no more than 33 $\frac{1}{3}$ % of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

The provisions of this act shall apply only to that interest earned and paid on a deposit after the effective date of this act.

C. 40A:4-45.28 Budget "cap" exception.

2. In addition to the exceptions from the limitations on final appropriations in local budgets permitted under section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3), there shall be excepted annually from those limitations an amount equal to the amount of interest a municipality was paid on the amounts it deposited in accordance with the provisions of subsections a. and h. of section 41 of P. L. 1975, c. 291 (C. 40:55D-53) in the local budget year prior to the year in which this act takes effect.

3. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 316

A SUPPLEMENT to the "municipal and county utilities authorities law." approved August 22, 1957 (P. L. 1957, c. 183, C. 40:14B-1 et seq.).

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

C. 40:14B-20.1 Interest on deposits with municipal authorities.

1. Whenever a municipal authority requires a person to deposit an amount of money exceeding \$5,000.00 for professional services employed by the municipal authority, for municipal authority inspection fees or to satisfy any performance or maintenance guarantee requirements, the money, until repaid or applied to the purposes for which it is deposited, including the person's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the person and shall be held in trust by the municipal authority. Money deposited shall be held in escrow. The municipal authority receiving the money shall deposit it in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at a minimum at the rate currently paid by the institution or depository on time or savings deposits. The municipal authority shall notify the per-

son in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The municipal authority shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, that entire amount shall belong to the person and shall be refunded to him by the municipal authority annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the municipal authority may retain for administrative expenses a sum equivalent to no more than 33 $\frac{1}{3}$ % of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

The provisions of this act shall apply only to that interest earned and paid on a deposit after the effective date of this act.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 317

AN ACT concerning the termination of leases in certain cases and amending P. L. 1971, c. 223, P. L. 1971, c. 318, and P. L. 1976, c. 63, and supplementing chapter 8 of Title 46 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. 1971, c. 223 (C. 46:8-21.1) is amended to read as follows:

C. 46:8-21.1 Return of deposit; displaced tenant.

3. Within 30 days after the termination of the tenant's lease or licensee's agreement, the owner or lessee shall return by personal delivery, registered or certified mail the sum so deposited plus the tenant's portion of the interest or earnings accumulated thereon, less any charges expended in accordance with the terms of a contract, lease, or agreement, to the tenant or licensee, or, in the case of a lease terminated pursuant to P. L. 1971, c. 318 (C. 46:8-9.1), the executor or administrator of the estate of the tenant or licensee or the surviving spouse of the tenant or licensee so

terminating the lease. The interest or earnings and any such deductions shall be itemized and the tenant, licensee, executor, administrator or surviving spouse notified thereof by personal delivery, registered or certified mail.

Within five business days after a. the tenant is caused to be displaced by fire, flood, condemnation, or evacuation, and b. an authorized public official posts the premises with a notice prohibiting occupancy, or c. any building inspector, in consultation with a relocation officer, where applicable, has certified within 48 hours that displacement is expected to continue longer than seven days and has so notified the owner or lessee in writing, the owner or lessee shall have available and return to the tenant or the tenant's designated agent upon his demand the sum so deposited plus the tenant's portion of the interest or earnings accumulated thereon, less any charges expended in accordance with the terms of the contract, lease or agreement and less any rent due and owing at the time of displacement.

Such net sum shall continue to be available to be returned upon demand during normal business hours for a period of 30 days at a location in the same municipality in which the subject leased property is located and shall be accompanied by an itemized statement of the interest or earnings and any deductions. The owner or lessee may, by mutual agreement with the municipal clerk, have the municipal clerk of the municipality in which the subject leased property is located return said net sum in the same manner. Within three business days after receiving notification of the displacement, the owner or lessee shall provide written notice to a displaced tenant by personal delivery or mail to the tenant's last known address. Such notice shall include, but not be limited to, the location at which and the hours and days during which said net sum shall be available to him. The owner or lessee shall provide a duplicate notice in the same manner to the relocation officer. Where a relocation officer has not been designated, the duplicate notice shall be provided to the municipal clerk. When the last known address of the tenant is that from which he was displaced and the mailbox of that address is not accessible during normal business hours, the owner or lessee shall also post such notice at each exterior public entrance of the property from which the tenant was displaced. Any such net sum not demanded by and returned to the tenant or the tenant's designated agent within the period of 30 days shall be re-deposited or reinvested by the owner or lessee in an appropriate interest bearing or dividend yielding account in the same invest-

ment company, State or federally chartered bank, savings bank or savings and loan association from which it was withdrawn.

In the event that said displaced tenant resumes occupancy of the premises, said tenant shall redeliver to the owner or lessee one-third of the security deposit immediately, one-third in 30 days and one-third 60 days from the date of reoccupancy. Upon the failure of said tenant to make such payments of the security deposit, the owner or lessee may institute legal action for possession of the premises in the same manner that is authorized for nonpayment of rent.

In any action by a tenant, licensee, executor, administrator or surviving spouse for the return of moneys due under this section, the court upon finding for the tenant, licensee, executor, administrator or surviving spouse shall award recovery of double the amount of said moneys, together with full costs of any action and, in the court's discretion, reasonable attorney's fees.

2. Section 1 of P. L. 1971, c. 318 (C. 46:8-9.1) is amended to read as follows:

C. 46:8-9.1 Termination on death.

1. Any lease for a term of one or more years of a property that has been leased and used by the lessee solely for the purpose of providing a dwelling place for himself, or for himself and his family, may be terminated prior to the expiration date thereof, in the event of the death of such lessee or in the event of the death of such lessee or his spouse, as the case may be, upon notice duly given by such lessee or by the executor or administrator of his estate or by the surviving spouse in the event that such lease was executed jointly by husband and wife. Such termination shall take effect on the fortieth day following the receipt by the lessor of written notice thereof, and the rent shall be paid up to the time of such termination, whereupon the lease shall cease and come to an end. The property shall be vacated and possession shall be turned over to the lessor at least five working days prior to the fortieth day following receipt by the lessor of written notice. The provisions of this act shall not apply to any lease the terms whereof shall explicitly provide otherwise.

3. Section 6 of P. L. 1976, c. 63 (C. 54:4-6.7) is amended to read as follows:

C. 54:4-6.7 Property tax rebate, credit.

6. The property tax rebate or credit for each dwelling unit shall be paid to the tenant in residence of such unit at the time each

rent payment is made. Such property tax reduction shall, at the option of the owner, either be credited as a rent reduction or paid directly to the tenant. The amount of each property tax rebate or credit shall be equal to the annual amount of the rebate or credit multiplied by the percentage of annual rent payable at such time; provided, however, that the amount of the rebate or credit due the tenant at the time the rent is paid shall be rounded off such that any amount less than \$0.50 shall be reduced to the next lower dollar and any amount \$0.50 or higher shall be increased to the next higher dollar.

In the case of a lease terminated pursuant to P. L. 1971, c. 318 (C. 46:8-9.1), any property tax rebate or credit due and owing prior to the termination of the lease shall be paid to the executor or administrator of the estate of the tenant or the surviving spouse of the tenant terminating the lease.

4. Section 10 of P. L. 1976, c. 63 (C. 54:4-6.11) is amended to read as follows:

C. 54:4-6.11 Double damages.

10. Any property owner of qualified real rental property who fails to provide a tenant or, in the case of a lease terminated pursuant to P. L. 1971, c. 318 (C. 46:8-9.1), the executor or administrator of the estate of the tenant or the surviving spouse of the tenant so terminating the lease, with a property tax rebate in accordance with the provisions of this act shall be liable to the tenant, executor, administrator or surviving spouse for twice the amount of the property tax rebate to which the tenant was entitled or \$100.00, whichever is greater.

C. 46:8-9.2 Termination on disability.

5. (New section) A lease for a term of one or more years of a property that has been leased and used by the lessee solely for the purpose of providing a dwelling place for himself, or himself and his family, may be terminated prior to the expiration date thereof if the lessee or his spouse, or both, suffer a disabling illness or accident, upon notice duly given by the lessee or his spouse, on a form to be provided by the Director of the Division of Housing in the Department of Community Affairs, which form shall include: a. certification of a treating physician that the lessee or spouse is unable to continue to engage in gainful employment; b. proof of loss of income; and c. proof that any pension, insurance or other subsidy to which the lessee or his spouse is entitled is insufficient to supplement the income of the lessee or his spouse so that the

rent on the property in question can be paid and that the income is necessary for payment of the rent. The termination shall take effect on the fortieth day following the receipt by the lessor of written notice thereof, and the rent shall be paid up to the time of termination, whereupon the lease shall cease and come to an end. The property shall be vacated and possession shall be turned over to the lessor at least five working days prior to the fortieth day following receipt by the lessor of written notice. The provisions of this section shall not apply to any lease the terms whereof shall explicitly provide otherwise.

C. 46:8-9.3 Rules, regulations.

6. (New section) The Director of the Division of Housing in the Department of Community Affairs shall, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the purposes of this act.

7. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 318

AN ACT controlling smoking in certain indoor public places and supplementing Title 26 of the Revised Statutes.

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

C. 26:3D-38 Findings, declarations.

1. The Legislature finds and declares that the resolution of the conflict between the right of the smoker to smoke and the right of the nonsmoker to breathe clean air involves a determination of when and where, rather than whether a smoker may legally smoke. It is not the public policy of this State to deny anyone the right to smoke. However, the Legislature finds that in those enclosed areas affected by this act the right of the nonsmoker to breathe clean air should supersede the right of the smoker to smoke. In addition to the deleterious effects upon smokers, tobacco smoke is (1) at least an annoyance and a nuisance to a substantial percentage of the non-smoking public, and (2) a substantial health hazard to a smaller

segment of the nonsmoking public. The purpose of this act, therefore, is to control smoking in certain indoor public places.

C. 26:3D-39 Definitions.

2. As used in this act:

a. "Indoor public place" means a structurally enclosed area generally accessible to the public in theatres, gymnasiums, libraries, museums, concert halls, auditoriums, or other similar facilities which are neither owned or leased by a governmental entity or qualify as a health care facility or the waiting room of a person licensed to practice the healing arts. Race track facilities, casinos licensed under the "Casino Control Act," P. L. 1977, c. 110 (C. 5:12-1 et seq.), facilities used for the holding of boxing and wrestling exhibitions or performances, football, baseball, and other sporting event facilities, bowling alleys, dance halls, ice and roller skating rinks and other establishments providing ambulatory recreation are excluded from this definition.

b. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

C. 26:3D-40 Nonsmoking areas in indoor public places.

3. a. The owner, manager, proprietor, or other person who has control of an indoor public place shall establish nonsmoking areas in those places for which he is responsible. In establishing nonsmoking areas, the owner, manager, proprietor, or other person in charge shall provide areas for nonsmokers to use to conduct business or participate in activities free from the annoyance and health hazard of smoke.

b. Smoking is prohibited in pharmacies, drug stores, or areas registered with the board of pharmacy of the State of New Jersey and to which permits have been issued for the dispensing of prescription drugs, and in any areas where hearing aids are sold at retail.

c. Smoking areas for employees may be permitted in any indoor public place covered under this act as long as they are separate areas and not generally accessible to the public except where smoking is prohibited by municipal ordinance under authority of R. S. 40:48-1 and R. S. 40:48-2 for the purposes of protecting life and property from fire.

C. 26:3D-41 Guidelines.

4. a. The State or any agency or political subdivision thereof may suggest guidelines for establishing nonsmoking areas in indoor

public places which may be followed by the owner, manager, proprietor or other person in charge of an indoor public place but in no case shall the guidelines be mandatory.

b. The provisions of this act shall supersede any other statute, municipal ordinance, and rule or regulation adopted pursuant to law concerning smoking in indoor public places except where smoking is prohibited by municipal ordinance under authority of R. S. 40:48-1 and R. S. 40:48-2 for purposes of protecting life and property from fire.

C. 26:3D-42 Signs required.

5. Every area in an indoor public place where smoking is prohibited or specifically permitted shall be so designated by the owner, manager, proprietor or other person who has control of the indoor public place with a sign containing lettering not less than one inch in height stating "Smoking Permitted" or "Smoking Prohibited" or designated by the appropriate "Smoking Permitted" or "Smoking Prohibited" international symbol. The letters or symbol shall contrast in color with the sign. The sign may also indicate that violators are subject to a fine. Every sign required by this subsection shall be located so as to be clearly visible to the public.

C. 26:3D-43 Violation; penalty.

6. a. Any municipal or county health official or other public servant engaged in executing or enforcing this act shall order any person smoking in violation of this act to comply with the provisions of this act. Thereupon any such person who smokes in an indoor public place in violation of this act after the provisions of section 5 are complied with is subject to a fine not to exceed \$25.00. The owner, manager, proprietor, or any other person having control of the indoor place or any agent thereof, shall only be responsible for providing signs governing smoking pursuant to section 5 of this act and shall in no event be responsible for the enforcement of the provisions of this act.

b. The Department of Health or the local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reasons to suspect that any indoor public place is or may be in violation of the provisions of this act shall, by written notification, advise the owner, manager, proprietor or other person having control of the indoor public place accordingly and order appropriate action to be taken. Thereupon any person receiving such notice who knowingly fails or refuses to comply with the order is subject to a fine not to exceed \$25.00.

c. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the State Commissioner of Health of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

d. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the State Commissioner of Health of the State of New Jersey, or the local board of health, as the case may be, as plaintiff.

C. 26:3D-44 Immunity.

7. No owner, manager, proprietor or other person having control of the indoor public place or any agent thereof shall be subject to any action in any court by any party either under this act or at common law, provided that the Commissioner of Health of the State of New Jersey or the local board of health may bring an action against the owner, manager, proprietor or other person having control of the indoor public place or any agent thereof for failure to meet the provisions of this act.

C. 26:3D-45 Monitoring, evaluation.

8. The Judiciary Committee of the General Assembly, and the Law, Public Safety and Defense Committee of the Senate, or their respective successors, are constituted a joint committee for the purposes of monitoring and evaluating the effectiveness of the implementation of this act. The Commissioner of Health of the State of New Jersey shall, one year from the effective date of this act, report to the joint committee an evaluation of the effectiveness of this act and the committee shall, upon receiving such report, issue as it may deem necessary and proper, recommendations for administrative or legislative changes affecting the implementation of this act.

9. This act shall take effect on the one hundred eightieth day after enactment.

Approved August 28, 1985.

CHAPTER 319

AN ACT concerning judges of the Superior Court in certain counties and amending N. J. S. 2A:2-1.

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

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

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 334 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	7
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	18
Hunterdon	2
Mercer	8
Middlesex	18
Monmouth	12
Morris	11
Ocean	10
Passaic	14
Salem	2
Somerset	6
Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the

counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 320

AN ACT concerning the unclassified service of civil service and amending R. S. 11:22-2.

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

1. R. S. 11:22-2 is amended to read as follows:

Unclassified service.

11:22-2. The unclassified service shall not be subject to the provisions of this subtitle and shall include the following:

- a. Officers elected by popular vote;
- b. Members of district boards of elections; employees in voting machine departments and the chief deputy, chief clerk, secretary, clerical and other assistants or employees appointed by the superintendents of elections and commissioners of registration in counties of the first class having less than 800,000 inhabitants, and by the county boards of elections in all other counties and such of said officers, assistants and employees as are appointed by superintendents of elections in counties of the first class having more than 800,000 inhabitants, to serve for terms of six months or less in any one year;
- c. Appointments of the mayor;
- d. Heads of municipal departments, the members of commissions and boards elected by the board of aldermen, common council or other governing body of any county, municipality or school district operating under this subtitle;
- e. Heads of such county departments as are created by the administrative code of any county organized pursuant to any of the plans contained in the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A-1 et seq.), or by the organization or reorganization resolution of any other county of the second class with a

population of at least 470,000, which departments shall not exceed 12 in number, and the heads of any divisions created within such departments; provided, however, that the total number of positions created pursuant to this subsection by the administrative code or organization or reorganization resolution shall not exceed 20 in number;

f. Law officers of a county, municipality or school district operating under this subtitle;

g. Teaching staff members, 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. Police magistrates appointed by the mayor or other head officer of the municipality operating under this subtitle;

i. Officers and employees of county park commissions in counties of the second class, appointed under the provisions of R. S. 40:37-96 to R. S. 40:37-174;

j. The superintendent of a county hospital for persons suffering from communicable diseases, appointed under the provisions of R. S. 30:9-61 and R. S. 30:9-69;

k. The deputy or first assistant of principal executive officers, authorized by law to act generally for and in place of his principal;

l. The legal assistants of the law departments of the counties, municipalities or school districts operating under this subtitle, except as herein otherwise provided;

m. One secretary, clerk or executive director of each department, appointed board or commission authorized by law to appoint a secretary, clerk or executive director;

n. One secretary or confidential aide, if so provided in the administrative code of any county organized pursuant to any of the plans contained in the "Optional County Charter Law," or by the organization or reorganization resolution of any other county of the second class with a population of at least 470,000, to be appointed by each head of any county department or of any designated division within such department, when the head of any such division is an unclassified position pursuant to the provisions of subsection e. above. The total number of these appointments shall not exceed 20 in any county;

o. One private secretary or clerk or stenographer of each judge or principal executive officer;

p. All officials of county or municipal institutions who must of necessity be physicians;

q. Offices or positions whose incumbents by specific statute serve for fixed terms, or whose incumbents by specific statute serve at the pleasure of the appointing authority;

r. One council secretary to the municipal council, appointed by the council in any city of the first class with a population of less than 300,000;

s. All directors of municipal free public libraries in cities of the first class having a population of not less than 300,000 inhabitants;

t. The following positions in school districts which have been reorganized pursuant to P. L. 1975, c. 169 (C. 18A:17A-1 et seq.):

- Executive director of board affairs;
- Executive director of personnel;
- Executive director of the budget;
- Executive director of purchasing;
- Executive director of physical facilities;
- Executive director of data processing;
- Executive director of financial affairs;
- Executive controller;
- Executive director of internal audit; and
- Public information officer;

u. 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. 40A:41A-1 et seq.), and one confidential secretary for each member of the board of freeholders of any other county which has not adopted the provisions of the "Optional County Charter Law"; provided, however, that this subsection shall not be construed so as to authorize a board of chosen freeholders to increase the number of secretaries attached to such board of chosen freeholders upon the effective date of this amendatory act;

v. The following positions in local housing authorities:

- Executive director;
- Assistant executive director;
- Personnel officer;

Director of staff operations;
Director of administration;
Director of redevelopment; and
Urban initiatives coordinator;

w. Those management and executive positions in county hospitals in counties of the first class having less than 850,000 but more than 800,000 inhabitants, which have been designated pursuant to a management plan which has met the approval of the hospital board of managers, the governing body of the county, and the Commissioner of Health; and

x. Such other officers and positions not now included in the unclassified service by this section or by any other statute as the Civil Service Commission shall, from time to time, determine, according to law, to be in the unclassified service.

2. This act shall take effect immediately.

Approved August 28, 1985.

CHAPTER 321

AN ACT concerning education, establishing a minimum salary for teaching staff members, providing funding for salaries prescribed for teaching staff members and making an appropriation, amending N. J. S. 18A:29-5 and repealing N. J. S. 18A:29-6 through N. J. S. 18A:29-8, N. J. S. 18A:29-10, and N. J. S. 18A:29-12.

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

C. 18A:29-5.1 Short title.

1. (New section) This act shall be known and may be cited as the "Teacher Quality Employment Act."

C. 18A:29-5.2 Findings, declarations.

2. (New section) The Legislature finds and declares that:

a. Attracting and retaining the most able individuals to the profession of teaching is critical to the future welfare of our State and our citizens.

b. The starting salary levels for new teachers have fallen significantly behind the starting salaries paid to other recent college graduates.

c. A competitive starting teacher salary is an additional means of attracting and retaining outstanding individuals in the teaching profession.

3. N. J. S. 18A:29-5 is amended to read as follows:

\$18,500 minimum salary.

18A:29-5. The minimum salary of a full-time teaching staff member in any school district who is certified by the local board of education as performing his duties in an acceptable manner for the previous academic year pursuant to N. J. A. C. 6:3-1.19 and 6:3-1.21 and who is not employed as a substitute on a day-to-day basis shall be \$18,500.00 for an academic year and a proportionate amount for less than an academic year.

For the purpose of this amendatory and supplementary act, "full-time" means the number of days of employment in each week and the period of time in each day required by regulations of the State board to qualify a person as a full-time teaching staff member.

In addition this minimum salary shall apply to all new full-time teaching staff members hired for the 1985-86 academic year and thereafter.

C. 18A:29-5.3 No lower salaries.

4. (New section) No salary schedule adopted by any board of education shall provide for salaries lower than as prescribed by this amendatory and supplementary act.

C. 18A:29-5.4 Extracurricular activities, summer employment excluded.

5. (New section) The minimum salary established in N. J. S. 18A:29-5 shall not include any amounts paid to a member for duties which are not part of the member's regular contractual responsibilities, such as remuneration for coaching and other extracurricular activities, and summer employment.

C. 18A:29-5.5 No automatic salary increases.

6. (New section) Teachers receiving more than the minimum salary set forth in this amendatory and supplementary act shall not receive automatic salary increases pursuant to any existing collective negotiations agreement with a salary guide indexed to compute salaries on the basis of a ratio established between the minimum salary and all other ranges, increments, or increases.

C. 18A:29-5.6 Funding.

7. (New section) a. The actual salary paid to each teacher under each district's 1984-85 approved salary guide shall be considered a base salary for purposes of this act.

b. In addition to all other funds to which the local district is entitled under the provisions of P. L. 1975, c. 212 (C. 18A:7A-1 et seq.) and other pertinent statutes, each board of education shall receive from the State during the 1985-86 academic year and for two years thereafter an amount equal to the sum of the amounts by which the actual salary prescribed for each current full-time teaching staff member under the salary schedule adopted by the local board of education for the 1984-85 academic year in the manner prescribed by law is less than \$18,500.00, provided that the teaching staff member has been certified by the local board of education as performing his duties in an acceptable manner for the 1984-85 school year pursuant to N. J. A. C. 6:3-1.19 and 6:3-1.21. Each local board of education shall receive from the State on behalf of the newly employed full-time teaching staff members for the 1985-86 academic year and for two years thereafter an amount equal to the sum of the amounts by which the actual salary prescribed for each newly employed full-time teaching staff member under the salary schedule adopted by the local board of education for the 1984-85 academic year is less than \$18,500.00. All adjustments for teachers who are hired or who leave employment during the school year and who make less than \$18,500.00 shall be made in the school year following the year in which they were hired or left employment.

c. For the 1988-89 academic year and thereafter, this act shall be funded in accordance with the recommendations of the State and Local Expenditure and Revenue Policy Commission created pursuant to P. L. 1984, c. 213. If the commission's recommendations for funding this program are not enacted into law, this act shall be funded in accordance with subsection d. of this section and sections 9 and 10 of this act.

d. For the purpose of funding this act in the 1988-89 academic year as determined pursuant to this section, each teacher's salary based on the 1984-85 salary guide shall be increased by the product of the base salary multiplied by 21%.

e. In each subsequent year the product of the base salary times 7% shall be cumulatively added to each teacher's salary as calculated in subsection d. of this section in determining the aid payable.

In any year subsequent to the 1987-88 academic year in which the base salary plus the cumulative increases under this section exceed \$18,500.00, aid will no longer be payable.

C. 18A:29-5.7 Report; 10 equal payments.

8. (New section) Each local board of education shall report such information as shall be prescribed by the commissioner within 60 days of the effective date of this amendatory and supplementary act and within 60 days of initial employment of any full-time teaching staff member and thereafter as the commissioner shall require. Each local board of education shall receive the prescribed amount from the State in 10 equal monthly installments in sufficient amount to pay the State's obligation in full prior to June 30 of the academic year in which the amount being reimbursed by the State is actually paid to the full-time teaching staff member by the local board of education.

C. 18A:29-5.8 Provisions beginning in 1988-89.

9. (New section) Beginning with the 1988-89 school year and each year thereafter the decrease in the State aid payable pursuant to this act in the budget year and the prebudget years shall be added to the increase determined for each school district for each year under the provisions of section 25 of P. L. 1975, c. 212 (C. 18A:7A-25).

C. 18A:29-5.9 Calculation of State aid.

10. (New section) For the purpose of calculating State aid for the 1988-89 school year, the net current expense budget for the 1987-88 school year shall be increased by the decrease in State aid payable pursuant to this act in the 1987-88 school year and the State aid payable pursuant to this act in the 1988-89 school year. In each subsequent year, similar adjustments shall be made to ensure that general formula aid payable pursuant to this act is paid on the budget year and not on the prebudget year.

C. 18A:29-5.10 Fund transfer ban.

11. (New section) Any funds appropriated for salaries that will be replaced by State aid as authorized pursuant to this amendatory and supplementary act shall not be transferred to or used for any purpose other than the payment of teaching staff member salaries.

12. (New section) Nothing in this act shall be construed to require the reopening of any signed contract in effect for the 1985-86 school year.

C. 18A:29-5.11 Review, recommendations.

13. (New section) Five years following the implementation of this act the Commissioner of Education shall review the impact

of the policy establishing minimum teacher salaries to assess and determine its impact on the State's ability to attract and retain outstanding new teachers. On completion of the review, recommendations shall be made to the Governor and the Legislature concerning the continuation of the program and any proposed changes or modifications.

C. 18A:29-5.12 Rules, regulations.

14. (New section) The State Board of Education shall, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations which are necessary to effectuate the purpose of this act.

15. (New section) There is appropriated from the General Fund to the Department of Education \$37,700,000.00 for the purposes of section 7b. of this act.

Repealer.

16. Sections 18A:29-6, 18A:29-7, 18A:29-8, 18A:29-10 and 18A:29-12 of the New Jersey Statutes are repealed.

17. This act shall take effect immediately but shall remain inoperative until the enactment of P. L. 1985, c. 322 (C. 18A:29A-1 et seq.).

Approved September 9, 1985.

CHAPTER 322

AN ACT establishing the Governor's Annual Award for Outstanding Teaching, 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:29A-1 Short title.

1. This act shall be known and may be cited as the "Governor's Annual Teacher Recognition Act."

C. 18A:29A-2 Findings, declarations.

2. The Legislature finds and declares that:

a. The success of the public school system in this State is based upon the quality and dedication of our teaching staff members.

b. Providing for local and Statewide recognition of outstanding teaching will demonstrate our appreciation of excellence and encourage others to strive for the same.

c. Giving the teaching profession the stature and recognition it deserves will help attract and retain the most able individuals in the profession of teaching, a process which is critical to the future well-being of the State and its citizens.

d. In teaching, as in other professions, practitioners should be acknowledged for outstanding performance.

e. The purpose of this act is to provide for Statewide awards and recognition of the excellence of current members of the teaching profession.

C. 18A:29A-3 Teacher recognition selection panel.

3. In order to provide Statewide awards and recognition of the excellence of current members of the teaching profession, each school district may annually establish a teacher recognition selection panel composed of members of the teaching staff, administrative staff, parents and other citizens for the purpose of selecting recipients for the Governor's Annual Award for Outstanding Teaching.

This panel shall be composed of up to nine members as follows:

a. three members to be selected by the local board of education;

b. three members to be selected by the local bargaining unit which represents the classroom teachers of the district. Should that bargaining unit choose not to appoint members to the panel, then the board of education shall appoint up to three additional members;

c. three additional members selected jointly by the members selected under subsections a. and b. of this section.

Should the members selected pursuant to subsections a. and b. of this section fail to agree on the selection of the three additional members, then the additional members shall be selected by the local mayor from among the district's parent organization.

C. 18A:29A-4 Selection of outstanding teachers.

4. The teacher recognition selection panel may nominate to the local board of education one nonadministrative teaching staff member from each school in the district having 10 or more teachers who, because of their knowledge, commitment, and creativity, have made an extraordinary contribution during the previous school year to the quality of education in that district. Schools having

fewer than 10 teachers may consolidate with other schools for the purpose of participating in this program, provided that the combined number of teachers is 10 or more. In selecting teaching staff members for the Governor's Annual Award for Outstanding Teaching, the panel may solicit nominations from teaching staff, administrative staff, parents, students, and community members.

Teaching staff members who are selected for the Governor's Annual Teacher Recognition Award shall have distinguished themselves through exceptional contributions in the following areas:

- a. use of effective instructional techniques and methods;
- b. establishment of productive classroom climate and rapport with pupils; and
- c. development of feelings of self-worth and the love of learning in pupils.

The selection panel shall consider evidence of these contributions in making its decisions. Teachers selected for the award shall have received exemplary local district evaluation reports. School districts may also consider other evidence of outstanding teaching performance.

Teachers selected for the Governor's Award shall also have other acceptable personnel records which are devoid of recent sanctions or deficiencies.

The local board of education may certify to the commissioner the name of one teaching staff member from each school or combination of schools in the district having 10 or more teachers as a recipient of the Governor's Award. The local board may not certify the names of any teaching staff members who were not nominated by the teacher recognition selection panel. The State shall provide funds in an amount equal to \$1,000.00 for each teacher selected pursuant to this act. These funds shall be forwarded in the teacher's name to the district for an educational purpose designated by the teacher. Districts that do not comply with all the provisions of this act shall not be included in the Governor's Award program.

Award recipients shall not be eligible for renomination for two years following their selection.

C. 18A:29A-5 Convocation; awards.

5. Annually, the Governor shall sponsor a convocation on "Excellence in Teaching" at which time each teaching staff member who has been selected by a local school district shall be awarded a certificate of commendation. At this convocation, each teacher

so selected shall be awarded a proportion of the funds provided pursuant to this act.

6. The funds provided pursuant to section 4 of this act are not to be subject to the expenditure limitation established pursuant to section 25 of P. L. 1975, c. 212 (C. 18A:7A-25).

C. 18A:29A-6 Review, recommendations.

7. Five years following the implementation of this act, the Commissioner of Education shall review the Governor's Annual Award for Outstanding Teaching to assess and determine its effectiveness in promoting excellence in teaching. On completion of the review, recommendations shall be made to the Governor and the Legislature concerning the continuation of the program and any proposed changes or modifications.

C. 18A:29A-7 Rules, regulations.

8. The State Board of Education shall, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations which are necessary to effectuate the purposes of this act.

9. This act shall take effect immediately but shall remain inoperative until the enactment and implementation of P. L. 1985, c. 321 (C. 18A:29-5.1 et al.).

Approved September 9, 1985.

CHAPTER 323

AN ACT concerning eligibility for membership in a volunteer fire company and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

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

C. 15:8-1.1 Arsonists ineligible to be fire fighters.

1. a. A person who is convicted of a violation of subsection a., b., c. or d. of N. J. S. 2C:17-1, concerning arson and arson related offenses, is ineligible for membership in a volunteer fire company.

b. A person who is convicted of a violation of N. J. S. 2C:33-3, concerning false public alarms, is ineligible for membership in a

volunteer fire company for a period of 10 years from the date of the conviction.

c. For the purposes of this act, "membership in a volunteer fire company" means membership in a volunteer fire company organized pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, membership in a volunteer fire company or similar organization constituted in a fire district pursuant to N. J. S. 40A:14-70.1, membership in a junior firemen's auxiliary established pursuant to N. J. S. 40A:14-95, or nonpaid membership in a part-paid fire department or force established pursuant to chapter 14 of Title 40A of the New Jersey Statutes.

2. This act shall take effect immediately.

Approved September 17, 1985.

CHAPTER 324

AN ACT requiring certain persons to obtain training in the safe use, maintenance and storage of firearms and amending N. J. S. 2C:39-6 and making an appropriation.

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

1. N. J. S. 2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. Exemptions. 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;

(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 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, or any special policeman authorized to carry a revolver or other similar weapons while off duty within the municipality where he is employed, as provided in N. J. S. 40A:14-146, or a special policeman or airport security officer appointed by the governing body of any county or municipality, except as provided in this paragraph, 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, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6-4.2 et seq.) 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) A full-time member of the marine patrol force or a special marine patrolman authorized to carry the weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(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; or

(9) A railway policeman, 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.

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 freshwater 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 signaling 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 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 paragraph.

2. The sum of \$35,000.00 is appropriated out of the general treasury to the Police Training Commission in the Department of Law and Public Safety for the purpose of implementing the provisions of subsection j. of N. J. S. 2C:39-6.

3. This act shall take effect on the 180th day after enactment.

Approved September 17, 1985.

CHAPTER 325

A SUPPLEMENT to the "New Jersey Sports and Exposition Authority Law," approved May 10, 1971, P. L. 1971, c. 137, (C. 5:10-1 et seq.).

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

C. 5:10-6.1 Sports Hall of Fame.

1. The New Jersey Sports and Exposition Authority created by P. L. 1971, c. 137 (C. 5:10-1 et seq.) is authorized to establish and operate a New Jersey Sports Hall of Fame as part of the Meadowlands complex. With respect to this project, the authority may exercise all the rights and powers relating to the Meadowlands complex granted to the authority under P. L. 1971, c. 137 (C. 5:10-1 et seq.) as though the rights and powers were granted under this supplementary act and made applicable to a New Jersey Sports Hall of Fame.

2. There is established to advise the authority a commission to be known as the New Jersey Sports Hall of Fame Advisory Commission, which shall consist of the four members of the authority

appointed by the Governor, and five citizens of the State who have distinguished themselves by their active participation in the world of sports: four of whom shall be appointed by the Governor with the advice and consent of the Senate, and one of whom shall be appointed by the Governor upon the recommendation of the New Jersey Sportswriters Association. The members of the commission shall choose a chairman and vice-chairman from the members who are not on the authority. Vacancies in the membership and in the offices of chairman and vice-chairman shall be filled in the manner provided for the original appointments.

3. The commission shall meet and organize at the call of its chairman as soon as may be following appointment of its members.

4. It shall be the duty of the commission to develop plans for establishing and operating a New Jersey Sports Hall of Fame. In preparing the plans, the commission shall give due consideration to architectural designs, use of existing structures, methods of operation, fiscal matters, criteria for selection of athletes and events to be commemorated, and other areas it may deem relevant to the creation at the Meadowlands complex of a New Jersey Sports Hall of Fame.

5. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for this purpose. The commission shall be further entitled to employ technical, administrative, and other personnel; to contract for technical or special services; and to incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

6. The commission may meet and hold hearings at such place or places as it shall designate and shall submit a report of its plans to the authority not later than one year following the effective date of this supplementary act. Upon submission of the report, the commission shall terminate.

7. There is appropriated \$25,000.00 for the purposes of this act.

8. This act shall take effect immediately.

Approved September 18, 1985.

CHAPTER 326

AN ACT concerning the transfer of certain State-owned lands.

WHEREAS, The Legislature finds and declares that increased revenues for this State and more employment opportunities for its citizens will result from the continued operation of public ski facilities; the loss of any ski operation in existence would have a severe impact on the economy of this State and its ability to attract tourists; ski facilities serve to protect the natural beauty of the State and are used for a variety of other recreational uses, such as fishing, hiking, picnicking and observing wildlife; there is the possibility that the ski facility currently being operated on certain State-owned land may be closed down as a result of an order of the Superior Court entered on November 8, 1984; and, therefore, it is in the best interests of the citizens of New Jersey for the Legislature to provide a means by which the ski facility now in operation on certain State-owned land will continue to operate to the benefit of the State and its citizens; now, therefore,

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

1. Notwithstanding the provisions of any other law, rule or regulation to the contrary, the State House Commission is authorized to sell and convey the State-owned property currently being used as part of a ski facility and which is the subject of certain leases, along with certain other State-owned property in close proximity to the leased lands, to the lessees of that property under terms and conditions acceptable to the State House Commission. In setting the terms and conditions, the State House Commission shall include a restriction on use requiring that the State-owned property currently being used as part of a ski facility and which is the subject of certain leases, along with certain other State-owned property in close proximity to the leased lands, be continually utilized for conservation or recreation or fish and game purposes.

2. All money received by the State pursuant to the sale and conveyance of the State-owned property pursuant to section 1 of this act shall be remitted to the State Treasurer and placed to the credit of the "Hunters' and Anglers' License Fund," created under

the provisions of R. S. 23:3-11, which moneys are to be used exclusively for the purposes of that fund. Interest earnings on moneys remitted to the State Treasurer under this section are to be credited to that fund.

3. The State House Commission is authorized, through its designated agent, to execute the deeds and all other documents necessary to effectuate the conveyance authorized by this act.

4. This act shall take effect immediately; however, the terms and conditions of all leases shall remain in full force and effect until the conveyance is completed.

Approved September 18, 1985.

CHAPTER 327

AN ACT to provide a special charter for the township of Hardyston in the county of Sussex.

WHEREAS, The township committee of the township of Hardyston, in the county of Sussex has petitioned the Legislature for the passage of a special law to provide a new charter for the township as proposed by the Hardyston Township Charter Study Commission, pursuant to the provisions of subsection (b) of section 1-12 of P. L. 1950, c. 210 (C. 40:69A-12) and pursuant to Article IV, Section VII, paragraph 10 of the Constitution of 1947 in accordance with the procedure prescribed by P. L. 1948, c. 199 (C. 1:6-10 et seq.); and

WHEREAS, Notice of intention to apply for the passage of such special law has been duly published and the original of the petition together with a duly certified copy of the ordinance authorizing the filing of the same has been presented and filed; now, therefore,

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

1. The charter of the township of Hardyston is set forth as follows:

Section 1-1. This charter shall be known as and may be cited as the "Hardyston Township Charter (1985)."

Section 1-1.1. Form of Government. The form of government of the township of Hardyston shall be known as the "Council-Manager Plan" and shall, together with the provisions of sections 2-1 to 2-5 of P. L. 1950, c. 210 (C. 40:69A-26 to 40:69A-30) and sections 17-14 to 17-18 of P. L. 1950, c. 210 (C. 40:69A-163 to 40:69A-167), govern the township.

Section 1-2. Government by Elected Council and Appointed Manager. The township shall be governed by an elected council and by an appointed municipal manager and by such other officers and employees as may be duly appointed pursuant to this charter, general law or ordinance.

Section 1-3. Council. The municipal council shall consist of three members who shall serve for terms of three years beginning on the first day of January next following their election.

Section 1-4. The Election of Council Members. Members of the municipal council shall be elected at large by the voters of the municipality at the general election.

Section 1-5. First Members of Council; Terms of Office. Notwithstanding any provision of law to the contrary, adoption of this charter shall not affect the terms of office of incumbent members of the township committee. Candidates for election to the council for a term commencing on January 1 next following the year in which this charter is adopted and becomes effective in the township shall run in the general election and shall serve for a period of three years from said January 1; in each succeeding general election a member of the council shall be elected for a term of three years.

Section 1-6. Organization of Council: Mayor. On the first day of January of each year the members of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council.

Section 1-7. Duties of Mayor. The mayor shall preside at all meetings of the municipal council and shall have a voice and vote in its proceedings. All bonds, notes, contracts and written obligations of the municipality shall be executed on its behalf by the mayor or, in the event of his inability to act, by such councilman as the municipal council shall designate to act as mayor during his absence or disability. Powers and duties of the mayor shall be

only such as are expressly conferred upon him by this charter or by general law.

Section 1-8. Powers of Municipality Vested in Council; Exceptions. All powers of the municipality and the determination of all matters of policy shall be vested in the municipal council, except as otherwise provided in this charter or by general law.

Section 1-9. Appointment of Municipal Manager and Clerk and Others. The municipal council shall appoint a municipal manager and a municipal clerk. Both of such offices may be held by the same person. The council may provide for the manner of appointment of a municipal attorney, any planning board, zoning board of adjustment or personnel board in the municipality and may create commissions and other bodies with advisory powers.

Section 1-10. Departments, Boards and Offices; Deputy Manager. The municipal council shall continue or create, and determine and define the powers and duties of such executive and administrative departments, boards and offices, in addition to those provided for herein, as it may deem necessary for the proper and efficient conduct of the affairs of the municipality, including the office of deputy manager, which shall not be included in the classified service under Title 11 of the Revised Statutes. Any department, board or office so continued or created may at any time be abolished by the municipal council.

Section 1-11. Municipal Council to Act as a Body; Administrative Service to be Performed through Manager; Committees or Commissions. It is the intention of this charter that the municipal council shall act in all matters as a body, and it is contrary to the spirit of this charter to influence the official acts of the municipal manager, or any other officer, or for the council or any of its members to direct or request the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. The council and its members shall deal with the administrative service solely through the manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing herein contained shall prevent the municipal council from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality; and delegating to such committees or commissions such powers of inquiry as the municipal council may deem necessary. Any councilman violating the pro-

visions of this section shall, upon conviction thereof in a court of competent jurisdiction, be disqualified as councilman.

Section 1-12. Qualifications of Municipal Manager. The municipal manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council.

Section 1-13. Term of Municipal Manager; Removal; Suspension. The municipal manager shall hold office for an indefinite term and may be removed by a majority vote of the council. At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the preliminary resolution, unless he is removed for good cause. For the purpose of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17-14, 17-15, 17-16, 17-17 or 17-18 of P. L. 1950, c. 210 (C. 40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

Section 1-14. Absence or Disability of Manager. The manager may designate a qualified administrative officer of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make such designation, the council may by resolution appoint an officer of the municipality to perform the duties of the manager during such absence or disability until he shall return or his disability shall cease.

Section 1-15. Powers and Duties of Manager. The municipal manager shall:

(a) Be the chief executive and administrative official of the municipality;

(b) Execute all laws and ordinances of the municipality;

(c) Appoint and remove a deputy manager if one be authorized by the council, all department heads and all other officers, subordinates, and assistants, except municipal tax assessor, for whose selection or removal no other method is provided in this charter, except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the municipal council;

(d) Negotiate contracts for the municipality, subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the municipal council;

(e) See that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation call the same to the attention of the municipal council;

(f) Attend all meetings of the municipal council, with the right to take part in the discussion, but without the right to vote;

(g) Recommend to the municipal council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the municipality, make reports to the council as requested by it, and at least once a year make an annual report of his work for the benefit of the council and the public;

(h) Investigate at any time the affairs of any officer or department of the municipality;

(i) Perform such other duties as may be required by the municipal manager by ordinance or resolution of the municipal council.

The municipal manager shall be responsible to the council for carrying out of all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

Section 1-16. Budget; Preparation by Manager. The municipal budget shall be prepared by the municipal manager. During the

month of November in each year, the municipal manager shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before him at public hearings, which shall be held during that month, on the various requests.

Section 1-17. Recommended Budget; Submission by Manager; System of Work Programs and Quarterly Allotments. On or before the fifteenth day of January the municipal manager shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto detailed analysis of the various items of expenditure and revenue.

The council shall, where practicable, provide by ordinance for the operation of a system of work programs and quarterly allotments for operation of the budget, and for development and reporting of appropriate unit costs of budgeted expenditures.

Section 1-18. Laws Conferring Powers upon Mayor or Other Executive Head Construed as Meaning Municipal Manager. Any provision of general law conferring the appointing power or other power upon the mayor or other executive head of the municipality shall be construed as meaning the municipal manager, and the appointments or the power exercised by the municipal manager in accordance with such provision shall be classified and given the same force and effect as if executed by the official named therein.

Section 1-19. Appropriations to Implement Charter. Any appropriations made in any year for the purpose of providing for costs of the election for submission of this charter to the voters or costs directly attributable to the adoption of this charter, including, but not by way of limitation, the salary of the municipal manager, shall be considered a mandated expenditure within the meaning of subsection g. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3).

Section 1-20. Transitional Provisions.

(a) Committee and committeemen. The township committeemen in office upon the effective date of the charter shall continue, each for the remainder of his unexpired term, and shall constitute the committee under this chapter for all purposes.

(b) Ordinances and resolutions. All ordinances and resolutions of the township adopted prior to the effective date of the charter shall remain in full force and effect, except to the extent that they are inconsistent with the provisions of the charter, until altered, amended or repealed pursuant to law.

(c) Officers and employees. The adoption of the charter shall not affect the term, tenure, pension rights, civil service rights or compensation of any person in office or employment upon the effective date of the charter.

(d) Volunteer fire companies. The adoption of the charter shall not in any way adversely affect the status, rights, privileges or immunities of the volunteer fire companies or their individual members.

(e) Administrative code. Within 30 days after the effective date of the charter, the committee shall provide by ordinance for the organization and administration of the township government in accordance with the requirements of the charter. Pending enactment of such an ordinance or ordinances, the township government may be organized and administered as heretofore.

(f) Pending actions and proceedings. No action or proceedings, civil or criminal, pending at the time when the charter shall take effect, brought by or against the township or any agency or officer, shall be affected or abated by the adoption of the charter or administrative code. All such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer, party thereto, may be assigned or transferred to another agency or officer. In that event, the action or proceeding may be prosecuted or defended by the head of the agency or the officer to which such functions, powers and duties are assigned or transferred.

Section 1-21. Validity. If any section, subsection, sentence, clause, phrase or portion of this charter is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and the invalidity thereof shall not affect the validity of the remaining portions thereof.

2. Submission. The question of adoption of this act shall be submitted to the legal voters of the township of Hardyston at the next general election to be held not less than 40 days following the effective date of this act.

3. Ballots. The referendum shall be conducted at such polling places as may be designated by the committee by resolution. The committee may provide for the use of either voting machines or paper ballots at such polling places. The public question to be submitted to the voters shall be in the following form:

	Yes.	Shall "An act to provide a special charter for the township of Hardyston in the county of Sussex" be adopted?
	No.	

4. Effective vote. If a majority of all the valid votes cast for and against the adoption of this act at such election shall be cast in favor of the adoption thereof, this act shall take effect and become operative in accordance with its terms.

5. Validation. All proceedings of the township committee of the township of Hardyston, county of Sussex, including the elections and qualifications of its members, and all actions of the said township committee, relating to this act, and to the petition of the Legislature for the passage of a special act, and the time and manner of publication of notice of intention to apply therefor, are hereby ratified, confirmed and validated.

6. Effective date. This act shall take effect immediately. Following the referendum required by section 2 of this act, the township clerk shall forthwith file her certificate of the results of the referendum on the public question with the Secretary of State, and the charter shall become operative on the first day of the year next following a favorable vote determined pursuant to section 4 of this act.

Approved September 18, 1985.

CHAPTER 328

AN ACT concerning the Passaic Valley sewerage district and supplementing chapter 14 of Title 58 of the Revised Statutes.

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

C. 58:14-1.2 All of North Arlington, Lyndhurst included in sewerage district.

1. The boundary lines of the sewerage district known as the Passaic Valley sewerage district, created by P. L. 1902, c. 48, as supplemented and continued by R. S. 58:14-1, are altered, amended and extended to include the entire areas within the corporate limits of the Borough of North Arlington and the Township of Lyndhurst, as hereinafter described:

Beginning at the intersection of the centerlines of Rutherford Avenue and Ridge Road in the Township of Lyndhurst, also being the boundary line between the Township of Lyndhurst and the Borough of Rutherford; thence (1) southerly along the centerline of Ridge Road to a point which is intersected by the centerline of the Belleville Turnpike in the Borough of North Arlington, also being the boundary line between the Borough of North Arlington and the Town of Kearny; thence (2) in a southeasterly direction along the centerline of Belleville Turnpike, and being the boundary line between the Borough of North Arlington and the Town of Kearny and also the boundary line between the County of Bergen and the County of Hudson, to a point which is intersected by the centerline of Saw Mill Creek, also being the southeasterly corner of the Borough of North Arlington; thence (3) in a northeasterly direction along the centerline of the Saw Mill Creek, and being the boundary line between the Borough of North Arlington and the Town of Kearny, to a point which is intersected by the centerline of the Hackensack River, also being a point in the boundary line between the Township of Lyndhurst, the Town of Kearny and the Town of Secaucus; thence (4) in a northerly direction along the centerline of the Hackensack River, and being the boundary line between the Township of Lyndhurst and the Town of Secaucus, and also being the boundary line between the County of Bergen and the County of Hudson, to a point which is intersected by the centerline of Berry's Creek, also being a point in the boundary line between the Township of Lyndhurst, the Town of Secaucus and Borough of Rutherford; thence (5) in a northwesterly direction along the centerline of Berry's Creek, and being the boundary line between the Township of Lyndhurst and the Borough of Rutherford to a point which is intersected by the centerline of Rutherford Avenue if extended in a southeasterly direction a distance of approximately 3,110 feet and being the northeasterly corner of the Township of Lyndhurst; thence (6) in a northwesterly direction along the northerly boundary line of the Township of Lyndhurst and the southerly boundary line of the Borough of

Rutherford, which boundary line becomes Rutherford Avenue, to a point at the intersection of the centerline of Rutherford Avenue and the centerline of Ridge Road and the point or place of beginning.

C. 58:14-1.3 Little Falls added.

2. The boundary lines of the sewerage district known as the Passaic Valley sewerage district, created by P. L. 1902, c. 48, as supplemented and continued by R. S. 58:14-1, are altered, amended and extended to include the entire area within the corporate limits of the Township of Little Falls, as hereinafter described:

Beginning at a point at center of Passaic River where same intersects the borderline of the Borough of West Paterson, thence, running southeasterly for a distance of approximately 6,350 feet on a line parallel to the northerly side of Passaic Valley Water Commission right-of-way along Borough of West Paterson borderline, to a point on the northerly side of Lower Notch Road right-of-way and Borough of West Paterson line, thence, running southwesterly for a distance approximately 300 feet along Borough of West Paterson borderline, to a point on southerly side of New Jersey State Highway Route 46 right-of-way and Borough of West Paterson borderline, thence, running southeasterly for a distance approximately 1,000 feet along Borough of West Paterson borderline, to a point at center of Jackson Avenue and the Borough of West Paterson borderline, thence, running southeasterly for a distance approximately 450 feet along center of Jackson Avenue, to a point at centers of Jackson Avenue, Mountain Avenue, and the New Jersey State Highway Route 46, thence, running easterly for a distance approximately 3,300 feet along Borough of West Paterson borderline, to a point at center of Notch Road and City of Clifton borderline, thence, running southwesterly for a distance approximately 5,200 feet along City of Clifton borderline, to a point of intersection of Town of Montclair line and City of Clifton borderline, thence, running northwesterly for a distance approximately 1,400 feet along Essex County borderline to a point on the easterly side of easement right-of-way line, formerly owned by New York and Greenwood Lake Railroad, and thence, running southwesterly for a distance approximately 300 feet along the easterly side of easement right-of-way line, formerly owned by New York and Greenwood Lake Railroad, to a point of intersection of the easterly side of easement right-of-way, formerly owned by New York and Greenwood Lake Railroad, and Township of Cedar Grove border-

line, thence, running northwesterly for a distance approximately 18,000 feet along Essex County borderline, to a point of intersection between Township of Cedar Grove borderline and Borough of North Caldwell borderline, thence, running westerly for a distance approximately 1,700 feet along Essex County line, to the center of Main Street and Essex County borderline, thence, running northwesterly for a distance approximately 800 feet along Essex County line, to center of Passaic River and Borough of West Caldwell borderline, thence, running northeasterly on center of Passaic River for a distance approximately 15,600 feet along Township of Wayne borderline and Borough of Totowa borderline to the point of beginning.

C. 58:14-1.4 Portion of Wyckoff.

3. The boundary lines of the sewerage district known as the Passaic Valley sewerage district, created by P. L. 1902, c. 48, as supplemented and continued by R. S. 58:14-1, are altered, amended and extended to include that portion of the Township of Wyckoff as hereinafter described:

Beginning at a point in the boundary between the County of Bergen and the County of Passaic where the same is intersected by the boundary between the Township of Wyckoff and the Borough of Franklin Lakes and proceeding thence:

- (1) North $4^{\circ}-37'-38''$ East a distance of 2,299.49 feet to a point, thence
- (2) South $67^{\circ}-51'-05''$ East a distance of 1,103.42 feet to a point, thence
- (3) North $18^{\circ}-22'-33''$ East a distance of 1,227.60 feet to a point, thence
- (4) South $70^{\circ}-07'-05''$ East a distance of 726.29 feet to a point, thence
- (5) South $10^{\circ}-32'-00''$ East a distance of 448.56 feet to a point, thence
- (6) South $59^{\circ}-18'-01''$ West a distance of 186.08 feet to a point, thence
- (7) South $31^{\circ}-00'-35''$ East a distance of 427.03 feet to a point, thence
- (8) South $58^{\circ}-47'-58''$ West a distance of 166.01 feet to a point, thence
- (9) South $32^{\circ}-39'-28''$ East a distance of 400.28 feet to a point, thence

- (10) South $54^{\circ}-33'-24''$ West a distance of 707.02 feet to a point, thence
- (11) South $40^{\circ}-56'-22''$ East a distance of 808.84 feet to a point, thence
- (12) South $15^{\circ}-39'-06''$ East a distance of 696.84 feet to a point in the boundary between the County of Bergen and the County of Passaic, thence
- (13) North $85^{\circ}-09'-49''$ West along said boundary a distance of 2,644.92 feet to the point and place of beginning.

C. 58:14-1.5 Service area of Jersey City Sewerage Authority.

4. The boundary lines of the sewerage district known as the Passaic Valley sewerage district, created by P. L. 1902, c. 48, as supplemented and continued by R. S. 58:14-1, are altered, amended and extended to include the entire service area of the Jersey City Sewerage Authority, as hereinafter described:

Beginning at a point formed by the intersection of the centerline of the Penhorn Creek and intersecting with the centerline of Secaucus Road, which is bounded by Secaucus on the west, North Bergen on the north and Jersey City on the south; thence (1) going in a southeasterly direction along Secaucus Road to a point that is intersected by the centerline of Paterson Plank Road, which is the dividing line between Union City on the north and Jersey City on the south; thence (2) going in a southerly direction along Paterson Plank Road until it intersects with the dividing line of Hoboken on the east, Union City on the north and Jersey City on the south; thence (3) running southwesterly between Hoboken and Jersey City to a point just crossing over Hoboken Avenue; thence (4) continued east and parallel with Hoboken Avenue until Henderson Street; thence (5) still easterly to a point in the Hudson River being the Modified Pierhead Line of January 12, 1931, Hoboken on the north and Jersey City on the south; thence (6) southerly along the Modified Pierhead Line 10,250 feet to a point; thence (7) southwest for 935 feet to a point; thence (8) continued in a southwesterly direction for 2,354 feet to a point being on the west side of Ellis Island; thence (9) southwesterly for 1,945 feet to a point which is on the southwest side of Ellis Island; thence (10) south for 557 feet to a point; thence (11) east for 984 feet; thence (12) south for 1,363 feet to a point, north of Liberty Island; thence (13) west for 300 feet to the Pierhead and Bulkhead Line adopted March 6, 1939; thence (14) southeast for 1,525 feet to the south side of Morris Pesin Drive if projected eastwardly 1,650

feet; thence (15) in a southerly direction along Pierhead and Bulkhead Line 9,500 feet to a point; thence (16) west for 9,932 feet to a point; thence (17) northwest for 245 feet to the centerline of Route 169; thence (18) northwest for 1,900 feet to the west side of Garfield Avenue; thence (19) in a northwesterly direction for 1,655 feet to the south side of Miles Street now vacated; thence (20) on a curve to the right in the northeasterly direction for 398 feet to the north side of Merritt Street; thence (21) northeast for 198 feet to a point; thence (22) on a curve to the left for 318 feet to another point; thence (23) on a tangent to the northwest 368 feet to the north side of John F. Kennedy Boulevard still in the same direction for 700 feet to the point of a curve to the right; thence (24) 100 feet on the curve to a point on the west side of the Lehigh Valley Railroad; thence (25) a distance of 2,550 feet in the Newark Bay; thence (26) northeast for 950 feet to a point; thence (27) in a northwest direction for 3,200 feet to a point being the centerline of the Newark Bay and the Hackensack River separating Jersey City from Kearny; thence (28) follow the centerline of the Hackensack River north to where it intersects with the centerline of the Penhorn Creek, that point being the dividing line of Jersey City, Kearny and Secaucus; thence (29) from that point continue in the northeast direction along the centerline of Penhorn Creek until the boundary line of Jersey City, Secaucus, and North Bergen and the point or place of beginning.

5. This act shall take effect immediately.

Approved September 18, 1985.

CHAPTER 329

AN ACT to authorize the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$190,000,000.00 for the purpose of providing financial aid to local government units for the construction of wastewater treatment systems; authorizing the issuance of refunding bonds; providing the ways and means to pay the interest on the bonds and refunding bonds and also to pay and discharge the principal thereof; providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

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

1. This act shall be known and may be cited as the “Wastewater Treatment Bond Act of 1985.”

2. The Legislature finds and declares that protecting the ground and surface water of the State from pollution is vital to the health and general welfare of the citizens of New Jersey; that the construction, rehabilitation, and maintenance of modern and efficient wastewater treatment systems is essential to protecting and improving the State’s water quality; that in addition to protecting and improving water quality, adequate wastewater treatment systems and facilities are essential to economic growth and development and the removal of construction bans imposed because of the lack of adequate wastewater treatment capacity; that many of the local sewer systems and treatment plants in New Jersey must be replaced or upgraded if an inexorable decline in water quality is to be avoided during the coming decades; that many municipalities rely on an outmoded and environmentally unsound combination of sewerage and stormwater runoff collection and treatment systems, which must be separated to achieve individual collection and treatment of sewerage and stormwater runoff; that the federal government, in recognition of the crucial role wastewater treatment systems and facilities play in maintaining and improving water quality, and with an understanding that the cost of financing and constructing these systems must be borne by local governments and authorities with limited sources of revenues, established as part of the “Federal Water Pollution Control Act Amendments of 1972,” Pub. L. 92-500 (33 U. S. C. § 1251 et al.), a grant program to provide funding for these systems; that during the last several years the amount of federal grant money available to states for assistance in constructing and improving wastewater treatment systems has sharply diminished; and that the current level of federal funding is inadequate to meet the cost of upgrading the State’s wastewater treatment capacity to comply with federal water quality standards.

The Legislature therefore determines that it is in the public interest for the State to issue bonds for the purpose of providing financial aid to local government units for the construction of wastewater treatment systems.

The Legislature further determines that in the light of the reduced level of federal financial assistance available for the con-

struction of wastewater treatment facilities, it is necessary that the State make the maximum use of the bond funds authorized pursuant to this act; and that to achieve this maximum use it is appropriate to provide that a portion of the bond funds authorized pursuant to this act be made available to an independent financial authority, established pursuant to law, for use by the authority to guarantee bonds or other debt issued to provide additional funds with which to provide financial assistance to local governments for the construction of wastewater treatment facilities.

3. As used in this act:

a. "Bonds" means the bonds authorized to be issued, or issued, under this act;

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

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

d. "Construct" and "construction" mean, in addition to the usual meanings thereof, the designing, engineering, financing, extension, repair, remodeling, rehabilitation, or consolidation, or any combination thereof, of a wastewater treatment system or any component part thereof;

e. "Cost" means the expenses incurred in connection with: the acquisition by purchase, lease or otherwise, the development, and the construction of any project authorized by this act; the acquisition by purchase, lease or otherwise, and the development of any real or personal property for use in connection with any project authorized by this act, including any rights or interests therein; the execution of any agreements and franchises deemed by the department to be necessary or useful and convenient in connection with any project authorized by this act; the procurement of engineering, inspection, planning, legal, financial or other professional services, including the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating or other expenses incident to the financing, completing and placing into service of projects authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys

which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for or in connection with any project authorized by this act;

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

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

h. "Local government unit" means a county, municipality, municipal or county sewerage or utility authority, municipal sewerage district, joint meeting, or any other political subdivision of the State authorized to construct wastewater treatment systems;

i. "Project" means any work relating to the construction of a wastewater treatment system by a local government unit;

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

k. "Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewerage, stormwater runoff, or any combination thereof, or other residue discharged or collected into a sewerage system or stormwater runoff system or any combination thereof;

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

4. The commissioner shall adopt, pursuant to law, rules and regulations necessary to implement the provisions of this act. The commissioner shall review and consider the findings and recommendations of the commission in implementing the provisions of this act.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$190,000,000.00 for the purpose of financing the cost of the construction of wastewater treatment systems. In the case of each series of bonds, the issuing officials shall provide for the allocation of the proceeds of bonds, exclusive of accrued interest and net of issuance expenses, for the purposes and subject to the limitations set forth in this act.

6. a. Of the total amount of bonds authorized pursuant to this act, \$150,000,000.00 is allocated for the purpose of making grants and low or zero interest loans to local government units for financing the cost of the construction of wastewater treatment systems. Of the amount of bond monies allocated pursuant to this subsection, not more than 20% of the total amount may be used for the purpose of making grants to local government units for the construction of wastewater treatment systems. No grant shall exceed 20% of the project cost.

b. Of the total amount of bonds authorized pursuant to this act, \$40,000,000.00 is allocated for payment to and use by the trust in providing financial aid to local government units for the construction of wastewater treatment systems as provided by law. If the "New Jersey Wastewater Treatment Trust Act," P. L. 1985, c. 334 (C. 58:11B-1 et seq.), has not been enacted into law by the date of the approval of this act by the voters, the bonds allocated pursuant to this subsection shall be allocated with the bonds allocated pursuant to subsection a. of this section, and subsection b. of section 15 and section 17 of this act shall be inoperative.

7. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "Wastewater Treatment Bonds." These bonds shall be issued from time to time as the issuing officials herein named shall determine, and may be issued in coupon form, fully-registered form or book-entry form. These bonds may be made subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the dates of their issuance.

8. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Trea-

sury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

9. Bonds issued in accordance with the provisions of this act shall be direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest thereon when due and for the payment of the principal thereof at maturity. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

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

11. a. The bonds shall recite that they are issued for the purposes set forth in sections 5 and 6 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1985, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the validity of the bonds and of the authority of the State to issue them. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with

all other provisions of law applicable hereto, and shall be incontestable for any cause.

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

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

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

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

15. a. The proceeds from the sale of bonds allocated pursuant to subsection a. of section 6 of this act shall be paid to the State Treasurer, to be held thereby in a separate fund, which shall be known as the "Wastewater Treatment Fund." The proceeds of this fund shall be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund.

b. The proceeds from the sale of bonds allocated pursuant to subsection b. of section 6 of this act shall be paid to the State Treasurer, to be held thereby in a separate fund, which shall be known as the "Wastewater Treatment Trust Fund." The proceeds of this fund shall be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund.

16. a. The moneys in the "Wastewater Treatment Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in subsection a. of section 6 of this act, and all such moneys are appropriated for those purposes, and no such moneys shall be expended for those purposes, except as otherwise authorized in this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "Wastewater Treatment Fund" shall identify the specific project or projects to be funded with those moneys and the terms and conditions of any loan made from the "Wastewater Treatment Fund." Payments of principal and interest on loans made from the "Wastewater Treatment Fund" shall be made to the "Wastewater Treatment Fund."

b. Any federal or State funds which may be made available to the State for loans to local government units for the construction of wastewater treatment systems may be deposited in the "Wastewater Treatment Fund."

c. Moneys in the "Wastewater Treatment Fund" may be appropriated by law to the trust.

17. The moneys in the "Wastewater Treatment Trust Fund" shall be promptly paid by the State Treasurer to the trust. The moneys paid to the trust pursuant to this section are specifically dedicated to, and shall be applied by the trust for, the purpose of establishing a reserve and guarantee fund to be used by the trust to guarantee debt issued by the trust or by a local government unit, and all such moneys are appropriated for these purposes. The trust shall not directly or indirectly use any moneys paid to it pursuant to this section for the purpose of making a loan or issuing a loan guarantee to a local government unit for the cost of construction of a wastewater treatment system unless the specific wastewater treatment system project, the amount and the terms and conditions of the loan, or the amount and the terms and conditions of the loan guarantee shall have been approved by the Legislature. Pending

their use by the trust for the purposes provided for in this section, moneys paid to the trust pursuant to this section may be invested and reinvested by the trust. Any earnings from this investment or reinvestment may be used for any purpose of the trust authorized by law. Payments of principal and interest on loans made by the trust shall be made to the trust, and may be used by the trust for purposes authorized by law.

18. a. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from available money in any fund of the treasury of the State to the credit of the "Wastewater Treatment Fund" or the "Wastewater Treatment Trust Fund" such sum or sums as he may deem necessary. The sum so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of bonds.

b. Pending their application to the purposes provided in this act, the moneys in the "Wastewater Treatment Fund" or the "Wastewater Treatment Trust Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of the "Wastewater Treatment Fund" shall be paid into the "Wastewater Treatment Fund," and net earnings from the investment or deposit of the "Wastewater Treatment Trust Fund" shall be paid to the "Wastewater Treatment Trust Fund."

19. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials such evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon; the ownership thereof; and the security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

20. The accrued interest received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Ac-

counting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

21. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in the bonds.

22. The issuing officials may issue refunding bonds and in an amount not to exceed the amount necessary to effectuate the refinancing of all or any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at such time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine; and

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on such bonds to be refinanced to the date of payment of such outstanding bonds, the expenses of issuing such refunding bonds and the expenses, if any, of paying such bonds to be refinanced; and

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal of and interest on such refunding bonds is less than the present value of the aggregate principal of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of such refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semi-annual compounding and upon the price or prices paid to the State by the initial purchasers of such refunding bonds; and

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on such bonds to be refinanced to

the date of payment of such bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying such bonds to be refinanced, or, to the extent not required for such immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. Any such proceeds or moneys so held by such trustees or escrow agents may be invested in government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States; provided such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with such trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from such principal or interest payments on such government securities deposited with such trustees or escrow agents, to the extent such cash will not be required at any time for such purpose, shall be paid over to such trustees or escrow agents, and to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments to the extent not required for the payment of bonds shall be paid over to the State, as received by such trustees or escrow agents. Notwithstanding anything to the contrary contained herein: (1) such trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with such trustees or escrow agents pursuant to the provisions of this section and redeem or sell government securities so deposited with such trustees or escrow agents and apply the proceeds thereof to the purchase of the bonds which were refinanced by the deposit with

such trustees or escrow agents of such moneys and government securities and immediately thereafter cancel all such bonds so purchased or the purchase of different government securities; provided, however, that the moneys and government securities on deposit with such trustees or escrow agents after such purchase and cancellation of such outstanding bonds or such purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which such moneys and government securities were deposited with such trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of such bonds or any purchases of different government securities as provided in this subsection, the total amount of moneys and government securities remaining on deposit with such trustees or escrow agents is in excess of the total amount which would have been required to be deposited with such trustees or escrow agents on such date in respect of the remaining bonds for which such deposit was made in order to pay when the principal of, redemption premium, if any, and interest on such remaining bonds, such trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of such excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents as provided herein to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on such bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of and interest on refunding bonds issued hereunder to refinance such bonds. The State Treasurer is authorized to enter into any contract or contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 13 hereof, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of

issuance of such series of refunding bonds, and such refunding bonds may be sold at public or private sale at such prices and under such terms, conditions and regulations as the issuing officials may prescribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Appropriations Committee's Subcommittee on Transfers a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Appropriations Committee's Subcommittee on Transfers shall have authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The subcommittee shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Appropriations Committee's Subcommittee on Transfers as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Subcommittee on Transfers of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The subcommittee shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

23. Any bond or bonds issued hereunder shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the

State shall no longer be pledged to the payment of the principal of and interest on such bonds, and such bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with such trustees or escrow agents as provided herein either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with such trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on such bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with such trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with such trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on such bonds; provided that any cash received from such principal or interest payments on such government securities deposited with such trustees or escrow agents, to the extent such cash will not be required at any time for such purpose, shall be paid over to the State as received by such trustees or escrow agents free and clear of any trust, lien, pledge or assignment securing such bonds; and to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on such bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the State, as received by such trustees or escrow agents, free and clear of any trust, lien or pledge securing such bonds.

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

24. Refunding bonds issued pursuant to section 22 of this act may be consolidated with bonds issued pursuant to section 7 of this act or with bonds issued pursuant to any other act for purposes of sale.

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

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

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

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

26. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, which is to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and

collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

27. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1985. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 15 days prior to the election, to publish this act in at least 10 newspapers published in this State and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have each of the ballots printed as follows:

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

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

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

WASTEWATER TREATMENT BOND FUND ISSUE	
Yes.	<p>Should the "Wastewater Treatment Bond Act of 1985," which authorizes the State to issue bonds in the amount of \$190,000,000.00 for the purpose of providing local government units with loans, grants, and other forms of financial aid for the construction of wastewater treatment systems, providing the ways and means to pay the interest on these bonds, and also to pay and discharge the principal thereof, be approved?</p> <p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$190,000,000.00 in State bonds to provide financial assistance to local government units for the construction of wastewater treatment systems. Of the total amount of bond monies, \$150,000,000.00 would be used to establish a grant and revolving loan program administered by the Department of Environmental Protection. The remaining \$40,000,000.00 would be deposited in the "New Jersey Wastewater Treatment Trust," an authority established pursuant to law. The "New Jersey Wastewater Treatment Trust" would be authorized to use these bond monies to guarantee revenue bonds or other debt issued by the trust, the proceeds of which will be used to make loans, or to provide loan guarantees, to local government units for the construction of wastewater treatment systems. If the "New Jersey Wastewater Treatment Trust" is not established, the entire amount of this bond issue would be used to establish the grant and revolving loan program administered by the Department of Environmental Protection.</p>
No.	

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

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

28. There is appropriated the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 27 of this act.

29. The commissioner shall submit to the State Treasurer and the commission with the department's annual budget request a plan for the expenditure of funds from the "Wastewater Treatment Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operations of programs that are financed, in part or in whole, by funds from the "Wastewater Treatment Fund"; and an estimate of expenditures for the upcoming fiscal year.

30. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the General Assembly Agriculture and Environment Committee, the Senate Energy and Environment Committee, or their successors, and the Subcommittee on Transfers of the Joint Appropriations Committee, or its successor, a copy of the plan called for under section 29 of this act, together with such changes therein as may have been required by the Governor's budget message.

31. This section and sections 27 and 28 of this act shall take effect immediately and the remainder of the act shall take effect as provided in section 27.

Approved September 23, 1985.

CHAPTER 330

AN ACT to authorize the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$85,000,000.00 to provide funds for loans to local government units for the construction of resource recovery facilities and environmentally sound sanitary landfill facilities; authorizing the issuance of refunding bonds; providing the ways and means to pay the interest on the bonds and refunding bonds and also to pay and discharge the principal thereof; providing for submission of this act to the people at a general election; and providing an appropriation therefor.

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

1. This act shall be known and may be cited as the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985."

2. The Legislature finds and declares that an environmentally sound strategy for the disposal of solid waste is necessary for the protection of the public health and safety and the preservation of the State's natural resources; that the State should end its virtually exclusive reliance on traditional landfills as a solid waste disposal method and encourage the utilization of resource recovery facilities designed to simultaneously dispose of and recover the energy contained in solid waste; that for areas of the State where the construction of resource recovery facilities is not a feasible economic option, the State should encourage the construction of environmentally sound sanitary landfill facilities equipped with state-of-the-art pollution control systems; that the cost of constructing and operating a resource recovery facility or an environmentally sound sanitary landfill facility will significantly increase the cost of solid waste disposal above the historically low rates associated with the use of traditional landfills; that while the responsibility to plan for the rational and environmentally sound disposal of solid waste rests with solid waste management districts, the State has the responsibility to provide financial assistance to solid waste management districts in order to facilitate the transition to environmentally sound solid waste disposal methods; and that it is therefore in the public interest for the State to issue bonds and establish a

Resource Recovery and Solid Waste Disposal Facility Fund for the purpose of providing financial assistance to local government units for the construction of resource recovery facilities and environmentally sound sanitary landfill facilities.

3. As used in this act:

a. "Bonds" means the bonds authorized to be issued, or issued, under this act;

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

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

d. "Construct" and "construction" mean, in addition to the usual meanings thereof, the designing, engineering, financing, extension, repair, remodeling, or rehabilitation, or any combination thereof, of a resource recovery facility or an environmentally sound sanitary landfill facility or any component part thereof;

e. "Cost" means the expenses incurred in connection with: the acquisition by purchase, lease or otherwise, the development, and the construction of any project authorized by this act; the acquisition by purchase, lease or otherwise, and the development of any real or personal property for use in connection with any project authorized by this act, including any rights or interests therein; the execution of any agreements and franchises deemed by the department to be necessary or useful and convenient in connection with any project authorized by this act; the procurement of engineering, inspection, planning, legal, financial or other professional services, including the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating or other expenses incident to the financing, completing and placing into service of projects authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance or replacement expenses and for the payment or security, principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for or in connection with any project authorized by this act;

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

g. "Environmentally sound sanitary landfill facility" means a sanitary landfill facility which is equipped with a liner or liners, a leachate control and collection system, and a groundwater pollution monitoring system, or any other pollution control or other engineering device required by the department pursuant to law or rule and regulation, and which is identified and included in a district solid waste management plan pursuant to the provisions of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.);

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

i. "Local government unit" means a county, municipality, municipal or county utility authority, or any other political subdivision of the State authorized to construct or operate a resource recovery facility or an environmentally sound sanitary landfill facility;

j. "Project" means any work relating to the construction of a resource recovery facility or an environmentally sound sanitary landfill facility by a local government unit;

k. "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, and which is identified and included in a district solid waste management plan pursuant to the provisions of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.);

l. "Sanitary landfill facility" means a solid waste facility at which solid waste is deposited on or in the land as fill for the purpose of permanent disposal or storage for a period exceeding six months.

4. The commissioner shall adopt, pursuant to law, rules and regulations necessary to implement the provisions of this act. The commissioner shall review and consider the findings and recommendations of the commission in implementing the provisions of this act.

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$85,000,000.00 for the purpose of making low interest or zero interest State loans to local government units for financing the construction of resource recovery facilities and environmentally sound sanitary landfill facilities.

b. Payments of principal and interest on loans made from the "Resource Recovery and Solid Waste Disposal Facility Fund" shall be made to the "Resource Recovery and Solid Waste Disposal Facility Fund."

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "Resource Recovery and Solid Waste Disposal Facility Bonds." These bonds shall be issued from time to time as the issuing officials herein named shall determine, and may be issued in coupon form, fully-registered form or book-entry form. These bonds may be made subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest thereon when due and for the payment of the principal thereof at maturity. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

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

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1985, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the validity of the bonds and of the authority of the State to issue them. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of law applicable hereto, and shall be incontestable for any cause.

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

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

12. The bonds shall be issued and sold at such price or prices and under such terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in

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

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

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer, to be held thereby in a separate fund, which shall be known as the "Resource Recovery and Solid Waste Disposal Facility Fund." The proceeds of this fund shall be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund.

15. a. The moneys in the "Resource Recovery and Solid Waste Disposal Facility Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act, and all such moneys are appropriated for those purposes, and no such moneys shall be expended for those purposes, except as otherwise authorized in this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "Resource Recovery and Solid Waste Disposal Facility Fund" shall identify the specific project or projects to be funded with those moneys and the amount and terms and conditions of any loan made from the "Resource Recovery and Solid Waste Disposal Facility Fund."

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from available money in any fund of the treasury of the State to the credit of the "Resource Recovery and Solid Waste Disposal Facility

Fund” such sums as he may deem necessary. The sum so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, the moneys in the “Resource Recovery and Solid Waste Disposal Facility Fund” may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of the “Resource Recovery and Solid Waste Disposal Facility Fund” shall be paid into the “Resource Recovery and Solid Waste Disposal Facility Fund.”

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials such evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon; the ownership thereof; and the security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in the bonds.

19. The issuing officials may issue refunding bonds and in an amount not to exceed the amount necessary to effectuate the refinancing of all or any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any

bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at such time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine; and

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on such bonds to be refinanced to the date of payment of such outstanding bonds, the expenses of issuing such refunding bonds and the expenses, if any, of paying such bonds to be refinanced; and

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal of and interest on such refunding bonds is less than the present value of the aggregate principal of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of such refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semi-annual compounding and upon the price or prices paid to the State by the initial purchasers of such refunding bonds; and

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on such bonds to be refinanced to the date of payment of such bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying such bonds to be refinanced, or, to the extent not required for such immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. Any such proceeds or moneys so held by such trustees or escrow agents may be invested in government securities, including government securities issued

or held in book-entry form on the books of the Department of Treasury of the United States; provided such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with such trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from such principal or interest payments on such government securities deposited with such trustees or escrow agents, to the extent such cash will not be required at any time for such purpose, shall be paid over to such trustees or escrow agents, and to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments to the extent not required for the payment of bonds shall be paid over to the State, as received by such trustees or escrow agents. Notwithstanding anything to the contrary contained herein: (1) such trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with such trustees or escrow agents pursuant to the provisions of this section and redeem or sell government securities so deposited with such trustees or escrow agents and apply the proceeds thereof to the purchase of the bonds which were refinanced by the deposit with such trustees or escrow agents of such moneys and government securities and immediately thereafter cancel all such bonds so purchased or the purchase of different government securities; provided, however, that the moneys and government securities on deposit with such trustees or escrow agents after such purchase and cancellation of such outstanding bonds or such purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which such moneys and government securities were deposited with such trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of such bonds or any purchases of

different government securities as provided in this subsection, the total amount of moneys and government securities remaining on deposit with such trustees or escrow agents is in excess of the total amount which would have been required to be deposited with such trustees or escrow agents on such date in respect of the remaining bonds for which such deposit was made in order to pay when the principal of, redemption premium, if any, and interest on such remaining bonds, such trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of such excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents as provided herein to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on such bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of and interest on refunding bonds issued hereunder to refinance such bonds. The State Treasurer is authorized to enter into any contract or contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 12 hereof, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance of such series of refunding bonds, and such refunding bonds may be sold at public or private sale at such prices and under such terms, conditions and regulations as the issuing officials may prescribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Appropriations Committee's Subcommittee on Transfers a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making

the decision to issue refunding bonds. The report shall also disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Appropriations Committee's Subcommittee on Transfers shall have authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The subcommittee shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Appropriations Committee's Subcommittee on Transfers as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Subcommittee on Transfers of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The subcommittee shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

20. Any bond or bonds issued hereunder shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of and interest on such bonds, and such bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with such trustees or escrow agents as provided herein either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with such

trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on such bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with such trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with such trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on such bonds; provided that any cash received from such principal or interest payments on such government securities deposited with such trustees or escrow agents, to the extent such cash will not be required at any time for such purpose, shall be paid over to the State as received by such trustees or escrow agents free and clear of any trust, lien, pledge or assignment securing such bonds; and to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on such bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the State, as received by such trustees or escrow agents, free and clear of any trust, lien or pledge securing such bonds. Notwithstanding anything to the contrary contained herein: a. such trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with such trustees or escrow agents pursuant to the provisions of this section and redeem or sell government securities so deposited with such trustees or escrow agents and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with such trustees or escrow agents of such moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided, however, that the moneys and government securities on deposit with such trustees or escrow agents after such purchase and cancellation of such bonds or such

purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which such moneys and government securities were deposited with such trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities as provided in this sentence, the total amount of moneys and government securities remaining on deposit with such trustees or escrow agents is in excess of the total amount which would have been required to be deposited with such trustees or escrow agents on such date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on such remaining bonds, such trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of such excess to the State free and clear of any trust, lien, pledge or assignment securing such refunding bonds.

21. Refunding bonds issued pursuant to section 19 of this act may be consolidated with bonds issued pursuant to section 6 of this act or with bonds issued pursuant to any other act for purposes of sale.

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

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

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

located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

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

23. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, which is to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

24. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1985. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 15 days

prior to the election, to publish this act in at least 10 newspapers published in this State and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have each of the ballots printed as follows:

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

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

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

	Yes.	<p>RESOURCE RECOVERY AND SOLID WASTE DISPOSAL FACILITY FUND BOND ISSUE</p> <p>Should the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," which authorizes the State to issue bonds in the amount of \$85,000,000.00 for the purpose of making State loans to local government units for the construction of resource recovery facilities and environmentally sound sanitary landfill facilities, providing the ways and means to pay the interest on these bonds, and also to pay and discharge the principal thereof, be approved?</p>
	No.	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$85,000,000.00 in State bonds, which would be used to establish a revolving fund to make low cost loans to local governments for the construction of resource recovery facilities and environmentally sound sanitary landfill facilities. Construction of these facilities would encourage and facilitate the environmentally safe disposal of solid waste.</p>

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

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

25. There is appropriated the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 24 of this act.

26. The commissioner shall submit to the State Treasurer and the commission with the department's annual budget request a plan for the expenditure of funds from the "Resource Recovery and Solid Waste Disposal Facility Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operations of programs that are financed, in part or in whole, by funds from the "Resource Recovery and Solid Waste Disposal Facility Fund"; and an estimate of expenditures for the upcoming fiscal year.

27. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the General Assembly Agriculture and Environment Committee, the Senate Energy and Environment Committee, or their successors, and the Subcommittee on Transfers of the Joint Appropriations Committee, or its successor, a copy of the plan called for under section 26 of this act, together with such changes therein as may have been required by the Governor's budget message.

28. This section and sections 24 and 25 of this act shall take effect immediately and the remainder of the act shall take effect as provided in section 24.

Approved September 23, 1985.

CHAPTER 331

AN ACT authorizing payments of principal and interest on loans made for resource recovery facilities from the "Natural Resources Fund" established pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70) to be made to the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985"; supplementing P. L. 1980, c. 70; providing for the submission thereof to the people at a general election, and making an appropriation.

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

1. (New section) The provisions of P. L. 1980, c. 70 to the contrary notwithstanding, payments of principal and interest on loans made pursuant to subsection a. of section 4 of P. L. 1980, c. 70, and P. L. 1985, c. 335, shall be paid to the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P. L. 1985, c. 330. The provisions of P. L. 1980, c. 70 to the contrary notwithstanding, any interest earnings from the investment of funds transferred from the "Natural Resources Fund" to the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to P. L. 1985, c. 330, shall be paid to the "Resource Recovery and Solid Waste Disposal Facility Fund."

2. For the purpose of complying with the provisions of the State Constitution, this act shall, at the general election to be held in the month of November, 1985, be submitted to the people. In order to inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to the election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the ballots, the following:

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

If you disapprove the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "No." If voting machines are used, a vote of "Yes" or "No" shall be equivalent to such markings respectively.

	Yes	<p>FINANCING RESOURCE RECOVERY FACILITIES FROM THE "NATURAL RESOURCES FUND"</p> <p>Shall the "Natural Resources Bond Act of 1980" be supplemented to provide that payments of principal and interest on loans made for resource recovery facilities from the "Natural Resources Fund," and interest derived from the investment of that portion of the "Natural Resources Fund" allocated for resource recovery facilities, be deposited in the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985"?</p>
	No.	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this act would permit repayments of loans for resource recovery facilities made from the "Natural Resources Fund" established by the "Natural Resources Bond Act of 1980" to be made to the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985." This act would also permit interest earnings derived from the investment of that portion of the "Natural Resources Fund" allocated for resource recovery to be deposited in the "Resource Recovery and Solid Waste Disposal Facility Fund."</p>

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

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

3. There is appropriated the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 2 of this act.

4. This section and sections 2 and 3 of this act shall take effect upon the approval by the Governor of the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P. L. 1985, c. 330, and P. L. 1985, c. 335, and the remainder of this act shall take effect as provided in section 2.

Approved September 23, 1985.

CHAPTER 332

AN ACT concerning resource recovery, and making an appropriation.

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

1. There is appropriated from the General Fund to the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P. L. 1985, c. 330, the sum of \$33,000,000.00.

2. There is appropriated to the Department of Environmental Protection from the "Resource Recovery and Solid Waste Disposal Facility Fund" pursuant to the "Resource Recovery and Solid Waste Disposal Bond Act of 1985," P. L. 1985, c. 330, the sum of \$33,000,000.00 for the purpose of making an interest-free loan to Essex county for the construction of a resource recovery facility. Payments of principal and interest on this loan shall be made to the "Resource Recovery and Solid Waste Disposal Facility Fund" pursuant to the terms of the loan agreement.

3. This act shall take effect upon the approval by the voters of the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P. L. 1985, c. 330.

Approved September 23, 1985.

CHAPTER 333

AN ACT concerning wastewater treatment, and amending P. L. 1985, c. 329.

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

1. Section 17 of P. L. 1985, c. 329 is amended to read as follows:

17. The moneys in the "Wastewater Treatment Trust Fund" shall be promptly paid by the State Treasurer to the trust. The moneys paid to the trust pursuant to this section are specifically dedicated to, and shall be applied by the trust for, the purpose of establishing reserve and guarantee funds, the reserve fund to be used by the trust to secure debt issued by the trust, and the guarantee fund to be used by the trust to secure debt issued by a local government unit, and all such moneys are appropriated for these purposes. The trust shall not directly or indirectly use any moneys paid to it pursuant to this section for the purpose of making a loan or issuing a loan guarantee to a local government unit for the cost of construction of a wastewater treatment system unless the specific wastewater treatment system project, the amount and the terms and conditions of the loan, or the amount and the terms and conditions of the loan guarantee shall have been ap-

proved by the Legislature. Pending their use by the trust for the purposes provided for in this section, moneys paid to the trust pursuant to this section may be invested and reinvested by the trust. Any earnings from this investment or reinvestment may be used for any purpose of the trust authorized by law. Payments of principal and interest on loans made by the trust shall be made to the trust, and may be used by the trust for purposes authorized by law.

2. Section 27 of P. L. 1985, c. 329 is amended to read as follows:

27. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1985. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 15 days prior to the election, to publish this act in at least 10 newspapers published in this State and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have each of the ballots printed as follows:

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

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

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

	<p>Yes.</p>	<p>WASTEWATER TREATMENT BOND FUND ISSUE</p> <p>Should the "Wastewater Treatment Bond Act of 1985," which authorizes the State to issue bonds in the amount of \$190,000,000.00 for the purpose of providing local government units with loans, grants, and other forms of financial aid for the construction of wastewater treatment systems, providing the ways and means to pay the interest on these bonds, and also to pay and discharge the principal thereof, be approved?</p> <p>INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$190,000,000.00 in State bonds to provide financial assistance to local government units for the construction of wastewater treatment systems. Of the total amount of bond monies, \$150,000,000.00 would be used to establish a grant and revolving loan program administered by the Department of Environmental Protection. The remaining \$40,000,000.00 would be deposited in the "New Jersey Wastewater Treatment Trust," an authority established pursuant to law. The "New Jersey Wastewater Treatment Trust" would be authorized to use these bond monies to secure local debt and to secure revenue bonds or other debt issued by the trust, the proceeds of which will be used to make loans to local government units for the construction of wastewater treatment systems. If the "New Jersey Wastewater Treatment Trust" is not established, the entire amount of this bond issue would be used to establish the grant and revolving loan program administered by the Department of Environmental Protection.</p>
	<p>No.</p>	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$190,000,000.00 in State bonds to provide financial assistance to local government units for the construction of wastewater treatment systems. Of the total amount of bond monies, \$150,000,000.00 would be used to establish a grant and revolving loan program administered by the Department of Environmental Protection. The remaining \$40,000,000.00 would be deposited in the "New Jersey Wastewater Treatment Trust," an authority established pursuant to law. The "New Jersey Wastewater Treatment Trust" would be authorized to use these bond monies to secure local debt and to secure revenue bonds or other debt issued by the trust, the proceeds of which will be used to make loans to local government units for the construction of wastewater treatment systems. If the "New Jersey Wastewater Treatment Trust" is not established, the entire amount of this bond issue would be used to establish the grant and revolving loan program administered by the Department of Environmental Protection.</p>

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

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

3. This section and section 2 of this act shall take effect immediately, and section 1 of this act shall take effect as provided in section 27 of P. L. 1985, c. 329, as amended by section 2 of this act.

Approved September 23, 1985.

CHAPTER 334

AN ACT establishing the New Jersey Wastewater Treatment Trust, defining the functions, duties and powers thereof, including the authorization to issue bonds, notes and other obligations and to establish any reserve funds necessary therefor, and to make loans to and guarantee debt incurred by local government units for wastewater treatment system projects.

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

C. 58:11B-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Wastewater Treatment Trust Act."

C. 58:11B-2 Findings, determinations.

2. The Legislature finds that the steady deterioration of older sewage and sewer systems and wastewater treatment plants endangers the availability and quality of uncontaminated water re-

sources of the State, thereby posing a grave danger to the health, safety and welfare of the residents of the concerned communities and the State; that the construction, rehabilitation, operation, and maintenance of modern and efficient sewer systems and wastewater treatment plants are essential to protecting and improving the State's water quality; that in addition to protecting and improving water quality, adequate wastewater treatment systems are essential to economic growth and development; that many of the wastewater treatment systems in New Jersey must be replaced or upgraded if an inexorable decline in water quality is to be avoided during the coming decades; that the United States Congress in recognition of the crucial role wastewater treatment systems and plants play in maintaining and improving water quality, and with an understanding that the cost of financing and constructing these systems must be borne by local governments and authorities with limited sources of revenues, established in the "Federal Water Pollution Control Act Amendments of 1972," P. L. 92-500 (33 U. S. C. § 1251 et al.) a program to provide local governments with grants for constructing these systems; that during the last several years the amount of federal grant money available to states and local governments for assistance in constructing and improving wastewater treatment systems has sharply diminished; that the current level of federal grant funding is inadequate to meet the cost of upgrading the State's wastewater treatment capacity to comply with State water quality standards; that the collective needs of the State and local governments for capital financing of wastewater treatment systems far exceed the sums of money presently available through revenue initiatives and State and federal aid programs; and that it is fitting and proper for the State to encourage local governments to undertake wastewater treatment projects through the establishment of a State mechanism to provide loans at the lowest reasonable interest rates and to guarantee or insure local capital improvement bonds.

The Legislature therefore determines that it is in the public interest to establish a State authority authorized to issue bonds, notes and other obligations and to establish any reserve funds necessary therefor, and to make loans to and guarantee debt incurred by local government units for wastewater treatment system projects.

C. 58:11B-3 Definitions.

3. As used in this act:

a. "Bonds" means bonds issued by the trust pursuant to this act;

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

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

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

e. "Local government unit" means a county, municipality, municipal or county sewerage or utility authority, municipal sewerage district, joint meeting, improvement authority, or any other political subdivision authorized to construct, operate and maintain wastewater treatment systems;

f. "Notes" means notes issued by the trust pursuant to this act;

g. "Project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any wastewater treatment system which meets the requirements set forth in sections 20, 21 and 22 of this act;

h. "Trust" means the New Jersey Wastewater Treatment Trust created pursuant to section 4 of this act;

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

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

C. 58:11B-4 Wastewater Treatment Trust.

4. a. There is established in, but not of, the Department of Environmental Protection a body corporate and politic, with corporate succession, to be known as the "New Jersey Wastewater Treatment Trust." The trust is constituted as an instrumentality of the State exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the trust of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The trust shall consist of a seven-member board of directors composed of the State Treasurer, the Commissioner of the Department of Community Affairs, and the Commissioner of the Department of Environmental Protection, who shall be members ex officio; one person appointed by the Governor upon the recommendation of the President of the Senate and one person appointed by the Governor upon the recommendation of the Speaker of the General Assembly, who shall serve during the two-year legislative term in which they are appointed; and two residents of the State appointed by the Governor with the advice and consent of the Senate, who shall serve for terms of four years, except that the first two appointed shall serve terms of two and three years respectively. Each appointed director shall serve until his successor has been appointed and qualified. A director is eligible for re-appointment. Any vacancy shall be filled in the same manner as the original appointment, but for the unexpired term only.

With respect to those public members first appointed by the Governor, the appointment of each of the two members upon the advice and consent of the Senate shall become effective 30 days after their nomination by the Governor if the Senate has not given advice and consent on those nominations within that time period; the President of the Senate and the Speaker of the General Assembly each shall recommend to the Governor a public member for appointment within 20 days following the effective date of this act, and a recommendation made in this manner shall become effective if the Governor makes the appointment in accordance with the recommendation, in writing, within 10 days of the Governor's receipt thereof. In each instance where the Governor fails to make the appointment, the President of the Senate and the Speaker of the General Assembly shall make new recommendations subject to appointment by the Governor as determined in this section.

c. Each appointed director may be removed from office by the Governor for cause, upon the Governor's consideration of the findings and recommendations of an administrative law judge after a public hearing before the judge, and may be suspended by the Governor pending the completion of the hearing. Each director, 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 oaths shall be filed in the office of the Secretary of State.

d. The Governor shall designate one of the appointed members to be the chairman and chief executive officer of the trust and the directors shall biannually elect a vice-chairman from among the appointed directors. The chairman shall serve as such for a term of one year and until a successor has been designated. A chairman shall not be eligible to succeed himself. The directors shall elect a secretary and treasurer, who need not be directors, and the same person may be elected to serve as both secretary and treasurer. The powers of the trust are vested in the directors in office from time to time and four directors shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the trust by the affirmative majority vote of those directors present, but in no event shall any action be taken or motions or resolutions adopted without the affirmative vote of at least four members. No vacancy on the board of directors of the trust shall impair the right of a quorum of the directors to exercise the powers and perform the duties of the trust.

e. Each director and the treasurer of the trust shall execute a bond to be conditioned upon the faithful performance of the duties of the director or treasurer in a form and amount as may be prescribed by the State Treasurer. Bonds shall be filed in the office of the Secretary of State. At all times thereafter, the directors and treasurer shall maintain these bonds in full effect. All costs of the bonds shall be borne by the trust.

f. The directors of the trust shall serve without compensation, but the trust shall reimburse the directors for actual and necessary expenses incurred in the performance of their duties. Notwithstanding the provisions of any other law to the contrary, 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 director of the trust or his services thereon.

g. Each ex officio director may designate an officer of his department to represent him at meetings of the trust. Each designee may lawfully vote and otherwise act on behalf of the director for whom he constitutes the designee. The designation shall be delivered in writing to the trust and shall continue in effect until revoked or amended in writing and delivered to the trust.

h. The trust may be dissolved by law; provided the trust has no debts or obligations outstanding or that provision has been made for the payment or retirement of these debts or obligations. The trust shall continue in existence until dissolved by act of the Legislature. Upon any dissolution of the trust all property, funds and assets of the trust shall be vested in the State.

i. A true copy of the minutes of every meeting of the trust shall be forthwith delivered by and under the certification of the secretary thereof to the Governor and at the same time to the Senate and General Assembly. The time and act of this delivery shall be duly recorded on a delivery receipt. No action taken or motion or resolution adopted at a meeting by the trust shall have effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after a copy of the minutes has been delivered to the Governor, unless during the 10-day period the Governor shall approve all or part of the actions taken or motions or resolutions adopted, in which case the action or motion or resolution shall become effective upon the approval. If, in the 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the trust or any member thereof at that meeting, the action shall be of no effect. The Senate or General Assembly shall have the right to provide written comments concerning the minutes to the Governor within the 10-day period, which comments shall be returned to the trust by the Governor with his approval or veto of the minutes. The powers conferred in this subsection upon the Governor shall be exercised with due regard for the rights of the holders of bonds, notes and other obligations of the trust at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the trust or any representative or officer of the trust to carry out and perform each covenant, agreement or contract made or entered into by or on behalf of the trust with respect to its bonds, notes or other obligations or for the benefit, protection or security of the holders thereof.

j. No resolution or other action of the trust providing for the

issuance of bonds, refunding bonds, notes or other obligations shall be adopted or otherwise made effective by the trust without the prior approval in writing of the Governor and the State Treasurer. The trust shall provide the Senate and General Assembly with written notice of any request for approval of the Governor and State Treasurer at the time the request is made, and shall also provide the Senate and General Assembly written notice of the response of the Governor and State Treasurer at the time that the response is received by the trust.

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

5. Except as otherwise limited by this act, the trust may:

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

b. Adopt an official seal and alter it;

c. Sue and be sued;

d. Make and enter into all contracts, leases and agreements necessary or incidental to the performance of its duties and the exercise of its powers under this act, and subject to any agreement with the holders of the trust's bonds, notes or other obligations, consent to any modification, amendment or revision of any contract, lease or agreement to which the trust is a party;

e. Enter into agreements or other transactions with and accept, subject to the provisions of section 23 of this act, grants, appropriations and the cooperation of the State, or any State agency, in furtherance of the purposes of this act, and do anything necessary in order to avail itself of that aid and cooperation;

f. Receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act, subject to the conditions upon which that aid and those contributions may be made, including, but not limited to, gifts or grants from any department or agency of the State, or any State agency, for any purpose consistent with this act, subject to the provisions of section 23 of this act;

g. Acquire, own, hold, construct, improve, rehabilitate, renovate, operate, maintain, sell, assign, exchange, lease, mortgage or otherwise dispose of real and personal property, or any interest therein, in the exercise of its powers and the performance of its duties under this act;

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

i. Borrow money and issue bonds, notes and other obligations, and secure the same, and provide for the rights of the holders thereof as provided in this act;

j. Subject to any agreement with holders of its bonds, notes or other obligations, invest moneys of the trust not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, in any obligations, securities and other investments in accordance with the rules and regulations of the State Investment Council;

k. Procure insurance to secure the payment of its bonds, notes or other obligations or the payment of any guarantees or loans made by it in accordance with this act, or against any loss in connection with its property and other assets and operations, in any amounts and from any insurers as it deems desirable;

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

m. Make and contract to make loans to local government units to finance the cost of wastewater treatment system projects and acquire and contract to acquire notes, bonds or other obligations issued or to be issued by local government units to evidence the loans, all in accordance with the provisions of this act;

n. Subject to any agreement with holders of its bonds, notes or other obligations, purchase bonds, notes and other obligations of the trust and hold the same for resale or provide for the cancellation thereof, all in accordance with the provisions of this act;

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

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

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

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

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

C. 58:11B-6 Issuance of bonds.

6. a. Except as may be otherwise expressly provided in this act, the trust may from time to time issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations or the interest or redemption premiums thereon to be funded or refunded have or have not become due, the establishment or increase of reserves or other funds to secure or to pay the bonds, notes or other obligations or interest thereon and all other costs or expenses of the trust incident to and necessary to carry out its corporate purposes and powers.

b. Whether or not the bonds, notes or other obligations of the trust are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds, notes and other obligations are made negotiable instruments within the meaning of and for the purposes of Title 12A, subject only to the provisions of the bonds, notes and other obligations for registration.

c. Bonds, notes or other obligations of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear any date or dates, mature at

any time or times, bear interest at any rate or rates of interest per annum, be in any denomination or denominations, be in any form, either coupon, registered or book entry, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of public and private debts, at any place or places within or without the State, and be subject to any terms of redemption by the trust or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the trust authorizing the issuance of bonds, notes or other obligations may provide that the bonds, notes or other obligations be secured by a trust indenture between the trust and a trustee, vesting in the trustee any property, rights, powers and duties in trust consistent with the provisions of this act as the trust may determine.

d. Bonds, notes or other obligations of the trust may be sold at public or private sale at any price or prices and in any manner as the trust may determine. Each bond, note or other obligation shall mature and be paid not later than 20 years from the effective date thereof, or the certified useful life of the project or projects to be financed by the bonds, whichever is less, nor shall any refunding of such obligations mature or be paid later than that date.

All bonds of the trust shall be sold at such price or prices and in such manner as the trust shall determine, after notice of sale, published at least three times in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in New Jersey or the city of New York, the first notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the trust, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The trust may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

e. Bonds, notes or other obligations of the trust may be issued under the provisions of this act without obtaining the consent of any department, division, board, bureau or agency of the State, and without any other proceedings or the happening of any other

conditions or things, other than those consents, proceedings, conditions or things which are specifically required by this act.

f. Bonds, notes or other obligations of the trust issued under the provisions of this act shall not be a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, but all these bonds, notes and other obligations, unless funded or refunded by bonds, notes or other obligations, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond, note and other obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in this act and that neither the State, nor any political subdivision thereof, is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations.

g. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the trust, shall not exceed \$600,000,000.00. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the trust, which shall be issued for refunding purposes, whenever the refunding shall be determined to result in a debt service savings, as hereinafter provided:

(1) Upon the decision by the trust to issue refunding bonds, and prior to the sale of those bonds, the trust shall transmit to the Joint Appropriations Committee's Subcommittee on Transfers, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

(2) The Joint Appropriations Committee's Subcommittee on Transfers shall have the authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with paragraph (1) of this subsection. The sub-

committee shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

(3) No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Appropriations Committee's Subcommittee on Transfers as set forth in paragraphs (1) and (2) of this subsection.

(4) Within 30 days after the sale of the refunding bonds, the trust shall notify the Subcommittee on Transfers of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

(5) The subcommittee shall review all information and reports submitted in accordance with this subsection and may, on its own initiative, make observations and recommendations to the trust, or to the Legislature, or both, as it deems appropriate.

h. Each issue of bonds, notes or other obligations of the trust may, if it is determined by the trust, be general obligations thereof payable out of any revenues, receipts or funds of the trust, or special obligations thereof payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds, notes or other obligations, and may be secured by one or more of the following:

(1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal of notes, bonds or other obligations issued to the trust by one or more local government units, and any other payment made to the trust pursuant to agreements with any local government units, or a pledge or assignment of any notes, bonds or other obligations of any local government unit and the rights and interest of the trust therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local government units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interest of the trust therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds, notes or other obligations;

(4) Pledge of the receipts to be derived from the payments of State aid, payable to the trust pursuant to section 12 of this act;

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(5) A mortgage on all or any part of the property, real or personal, of the trust then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the trust by any person or entity, public or private, including one or more local government units and the rights and interest of the trust therein.

i. The trust shall not issue any bonds, notes or other obligations, or otherwise incur any additional indebtedness, on or after 20 years from the effective date of this act.

C. 58:11B-7 Covenants by trust.

7. In any resolution of the trust authorizing or relating to the issuance of any of its bonds, notes or other obligations, the trust, in order to secure the payment of the bonds, notes or other obligations and in addition to its other powers, may by provisions therein which shall constitute covenants by the trust and contracts with the holders of the bonds, notes or other obligations:

a. Secure the bonds, notes or other obligations as provided in section 6 of this act;

b. Covenant against pledging all or part of its revenues or receipts;

c. Covenant with respect to limitations on any right to sell, mortgage, lease or otherwise dispose of any notes, bonds or other obligations of local governmental units, or any part thereof, or any property of any kind;

d. Covenant as to any bonds, notes or other obligations to be issued by the trust, and the limitations thereon, and the terms and conditions thereof, and as to the custody, application, investment and disposition of the proceeds thereof;

e. Covenant as to the issuance of additional bonds, notes or other obligations of the trust or as to limitations on the issuance of additional bonds, notes or other obligations and on the incurring of other debts by it;

f. Covenant as to the payment of the principal of or interest on bonds, notes or other obligations of the trust, as to the sources and methods of payment, as to the rank or priority of the bonds, notes or other obligations with respect to any lien or security or as to the acceleration of the maturity of the bonds, notes or other obligations;

g. Provide for the replacement of lost, stolen, destroyed or mutilated bonds, notes or other obligations of the trust;

h. Covenant against extending the time for the payment of bonds, notes or other obligations of the trust or interest thereon;

i. Covenant as to the redemption of bonds, notes and other obligations by the trust or the holders thereof and privileges of exchange thereof for other bonds, notes or other obligations of the trust;

j. Covenant to create or authorize the creation of special funds or accounts to be held in trust or otherwise for the benefit of holders of bonds, notes and other obligations of the trust, or reserves for other purposes and as to the use, investment, and disposition of moneys held in those funds, accounts or reserves;

k. Provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and prescribe the events of default and terms and conditions upon which any or all of the bonds, notes or other obligations of the trust shall become or may be declared due and payable before maturity and the terms and conditions upon which the declaration and its consequences may be waived;

l. Vest in a trustee or trustees within or without the State any property, rights, powers and duties in trust as the trust may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds, notes or other obligations of the trust pursuant to section 18 of this act, including rights with respect to the sale or other disposition of notes, bonds or other obligations of local government units pledged pursuant to a resolution or trust indenture for the benefit of the holders of bonds, notes or other obligations of the trust and the right by suit or action to foreclose any mortgage pledged pursuant to the resolution or trust indenture for the benefit of the holders of the bonds, notes or other obligations, and to limit or abrogate the right of the holders of any bonds, notes or other obligations of the trust to appoint a trustee under this act, and to limit the rights, duties and powers of the trustee;

m. Pay the costs or expenses incident to the enforcement of the bonds, notes or other obligations of the trust or of the provisions of the resolution authorizing the issuance of those bonds, notes or other obligations or of any covenant or agreement of the trust with the holders of the bonds, notes or other obligations;

n. Limit the rights of the holders of any bonds, notes or other obligations of the trust to enforce any pledge or covenant securing the bonds, notes or other obligations; and

o. Make covenants other than or in addition to the covenants authorized by this act of like or different character, and make

covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure the bonds, notes or other obligations of the trust, or which, in the absolute discretion of the trust, would make the bonds, notes or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

C. 58:11B-8 Pledges binding.

8. Any pledge of revenues, receipts, moneys, funds, or other property or instruments made by the trust shall be valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds or other property so pledged and thereafter received by the trust shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the trust, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge under this section is created need be filed or recorded, except in the records of the trust.

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

9. a. The trust may make and contract to make loans to local government units in accordance with and subject to the provisions of this act to finance the cost of wastewater treatment system projects which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money. The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) shall be approved by the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N. J. S.

40A:2-27, N. J. S. 40A:2-28 and N. J. S. 40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust and local government units may agree. Each loan to a local government unit and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust and the local government unit may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of any wastewater treatment system project which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust for the purposes of this act. Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, or otherwise incur any additional indebtedness, on or after 20 years from the effective date of this act.

C. 58:11B-10 General loan fund.

10. The trust shall create and establish a special fund to be known as the "general loan fund."

Subject to the provisions of the legislation appropriating moneys to the trust, subject to any other provision of this act providing otherwise and subject to agreements with the holders of bonds, notes and other obligations of the trust, the trust shall deposit into the general loan fund all revenues and receipts of the trust, including moneys received by the trust as payment of the principal of and the interest or premium on loans made from moneys in any fund or account held by the trust under this act and the earnings on the moneys in any fund or account of the trust, and all grants, appropriations, other than those referred to in section 11 of this act, contributions, or other moneys from any source, available for the making of loans to local government units. The amounts in the general loan fund shall be available for application by the

trust for loans to local government units for the cost of wastewater treatment system projects, and for other corporate purposes of the trust, subject to agreements with the holders of bonds, notes or other obligations of the trust.

C. 58:11B-11 Reserve, guarantee fund.

11. a. The trust shall establish a reserve and guarantee fund into which shall be deposited the proceeds from any State bond issue authorized for deposit in the trust or other funds appropriated by law to the trust for deposit in the reserve and guarantee fund. The reserve and guarantee fund shall be used by the trust to guarantee debt issued by the trust or a local government unit.

b. The trust may establish any reserves, funds or accounts as it may determine necessary or desirable to further the accomplishment of the purposes of the trust or to comply with the provisions of any agreement made by or authorized in any resolution of the trust.

C. 58:11B-12 Unpaid obligations of local government units.

12. a. To assure the continued operation and solvency of the trust, the trust may require that if a local government unit fails or is unable to pay to the trust in full when due any obligations of the local government unit to the trust, an amount sufficient to satisfy the deficiency shall be paid by the State Treasurer to the trust from State aid payable to the local government unit. As used in this section, obligations of the local government unit include the principal of or interest on bonds, notes or other obligations of a local government unit issued to or guaranteed by the trust, including the subrogation of the trust to the right of the holders of those obligations, any fees or charges payable to the trust, and any amounts payable by a local government unit under any service contract or other contractual arrangement the payments under which are pledged to secure any bonds or notes issued to the trust by another local government unit. State aid includes business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P. L. 1976, c. 38 (C. 40A:3-3), or other similar forms of State aid payable to the local government unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the local government unit by the State.

(1) If the trust requires, and there has been a failure or inability by a local government unit to pay its obligations to the

trust remaining uncured for a period of 30 days, the chairman of the trust shall certify to the State Treasurer, with written notice to the fiscal officer of the local government unit and to the Legislature, the amount remaining unpaid, and the State Treasurer shall pay that amount to the trust, or if the right to receive those payments has been pledged or assigned to a trustee for benefit of the holders of bonds, notes or other obligations of the trust, to that trustee, out of the State aid payable to the local government unit, until the amount so certified is paid.

(2) The amount paid over to the trust shall be deducted from the corresponding appropriation or apportionment of State aid payable to the local government unit and shall not obligate the State to make, nor entitle the local government unit to receive, any additional appropriation or apportionment. The obligation of the State Treasurer to make payments to the trust or trustee and the right of the trust or trustee to receive those payments shall be subject and subordinate to the rights of holders of qualified bonds issued or to be issued pursuant to P. L. 1976, c. 38 (C. 40A:3-1 et seq.).

(3) In those instances where the local government units are municipal or county sewerage, utility or improvement authorities created pursuant to P. L. 1946, c. 138 (C. 40:14A-1 et seq.) or P. L. 1957, c. 183 (C. 40:14B-1 et seq.), the trust may require the municipalities or counties which receive service or other benefits from the districts or authorities to enter into service contracts or other contractual arrangements under which they would be required to make payments which would satisfy any deficiencies in the revenues of the districts or authorities to repay the loans made by the trust, which contracts would be pledged to secure the payment of the loans of the trust.

b. Whenever a local government unit covenants or pledges to or secures the payment of its obligations to the trust by, in whole or in part, certain revenues of the local government unit derived by the local government unit from the imposition of rates, fees and charges, and the local government unit, and if payments by another local government unit under a service contract or other contractual arrangement are pledged to the payment of the obligations, the other local government unit, fails or is unable to pay in full when due any of the obligations and the State aid revenues for any reason have not been made available for the payment of the obligations or have not been made available in sufficient amounts to pay the obligations in full, the trust is

authorized during the period of such failure to cause the local government unit, in accordance with the covenants or pledges established in any loan or other agreement relating thereto, to establish and collect rates, fees and charges in the amounts required to pay the obligations in accordance with the covenants or pledges established in the loan or other agreement relating thereto.

C. 58:11B-13 No personal liability.

13. Neither the directors of the trust nor any person executing bonds, notes or other obligations of the trust issued pursuant to this act shall be liable personally on the bonds, notes or other obligations by reason of the issuance thereof.

C. 58:11B-14 Pledge to bondholders.

14. The State does pledge to and covenant and agree with the holders of any bonds, notes or other obligations of the trust issued pursuant to authorization of this act that the State shall not limit or alter the rights or powers vested in the trust to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations or to fix, establish, charge and collect any rents, fees, rates, payments or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the trust and to fulfill the terms of any agreement made with the holders of bonds, notes or other obligations, including the obligations to pay the principal of and interest and premium on those bonds, notes or other obligations, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, and shall not limit or alter the rights and powers of any local government unit to pay and perform its obligations owed to the trust in connection with loans received from the trust, until the bonds, notes and other obligations of the trust, together with interest thereon, are fully met and discharged or provided for.

C. 58:11B-15 Authorized investment.

15. The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds

belonging to them or within their control in any bonds, notes or other obligations issued pursuant to this act, and those bonds, notes or other obligations shall be authorized security for any and all public deposits.

C. 58:11B-16 Conveyance of government property.

16. All State agencies and governmental units, notwithstanding any contrary provision of law, may lease, lend, grant or convey to the trust at its request upon any terms and conditions as the governing body or other proper authorities of the State agencies or governmental units may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the authorizing ordinance of the governing body concerned, any real property or interest which may be necessary or convenient to the effectuation of the purposes of the trust.

C. 58:11B-17 Tax exemption.

17. All property of the trust is declared to be public property devoted to an essential public and governmental function and purpose and the revenues, income and other moneys received or to be received by the trust shall be exempt from all taxes of the State or any political subdivision thereof. All bonds, notes and other obligations of the trust issued pursuant to this act are declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and those bonds, notes and other obligations, and interest thereon and the income therefrom and from the sale, exchange or other transfer thereof shall at all times be exempt from taxation, except for transfer inheritance and estate taxes.

C. 58:11B-18 Default.

18. a. If the trust defaults in the payment of principal of, or interest on, any issue of its bonds, notes or other obligations after these are due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days or if the trust defaults in any agreement made with the holders of any issue of bonds, notes or other obligations, the holders of 25% in aggregate principal amount of the bonds, notes or other obligations of the issue then outstanding, by instrument or instruments filed in the office of the clerk of any county in which the trust operates and has an office and proved or acknowledged in the same manner as required for a deed to be recorded, may direct a trustee to represent the holders of the bonds, notes or other obligations of the issuers for the purposes herein provided.

b. Upon default, the trustee may, and upon written request of the holders of 25% in principal amount of the bonds, notes or other obligations of the trust of a particular issue then outstanding shall, in his or its own name:

(1) By suit, action or proceeding enforce all rights of the holders of bonds, notes or other obligations of the issue, to require the trust to carry out any other agreements with the holders of the bonds, notes or other obligations of the issue and to perform its duties under this act;

(2) Bring suit upon the bonds, notes or other obligations of the issue;

(3) By action or suit, require the trust to account as if it were the trustee of an express trust for the holders of the bonds, notes or other obligations of the issue;

(4) By action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds, notes or other obligations of the issue;

(5) Sell or otherwise dispose of bonds and notes of local government units pledged pursuant to resolution or trust indenture for benefit of holders of bonds, notes, or other obligations of the issue on any terms as resolution or trust indenture may provide;

(6) By action or suit, foreclose any mortgage pledged pursuant to the resolution or trust indenture for the benefit of the holders of the bonds, notes or other obligations of the issue;

(7) Declare all bonds, notes or other obligations of the issue due and payable, and if all defaults are made good, then with the consent of the holders of 50% of the principal amount of the bonds, notes or other obligations of the issue then outstanding, to annul the declaration and its consequences.

c. The trustee shall, in addition to the foregoing, have those powers necessary or appropriate for the exercise of any function specifically set forth herein or incident to the general representation of holders of bonds, notes or other obligations of the trust in the enforcement and protection of their rights.

d. The Superior Court shall have jurisdiction over any suit, action or proceeding by the trustees on behalf of the holders of bonds, notes or other obligations of the trust. The venue of any suit, action or proceeding shall be in the county in which the principal office of the trust is located.

e. Before declaring the principal of bonds, notes or other obligations of the trust due and payable as a result of a trust default on any of its bonds, notes or other obligations, the trustee shall

first give 30 days' notice in writing to the trust and to the Governor, State Treasurer, President of the Senate and Speaker of the General Assembly.

C. 58:11B-19 Application of trust funds.

19. Sums of money received pursuant to the authority of this act, whether as proceeds from the sale of particular bonds, notes or other obligations of the trust or as particular revenues or receipts of the trust, are deemed to be trust funds, to be held and applied solely as provided in the resolution or trust indenture under which the bonds, notes or obligations are authorized or secured. Any officer with whom or any bank or trust company with which those sums of money are deposited as trustee thereof shall hold and apply the same for the purposes thereof, subject to any provision as this act and the resolution or trust indenture authorizing or securing the bonds, notes or other obligations of the trust may provide.

C. 58:11B-20 Project priority list.

20. a. The Commissioner of Environmental Protection shall for each fiscal year develop a priority system for wastewater treatment systems and shall establish the ranking criteria and funding policies for the projects therefor. The commissioner shall set forth a project priority list for funding by the trust for each fiscal year and shall include the aggregate amount of funds of the trust to be authorized for these purposes. The project priority list, which shall include for each wastewater treatment system the date each project is scheduled to be certified as ready for funding, shall be in conformance with applicable provisions of the "Federal Water Pollution Control Act Amendments of 1972," Pub. L. 92-500 (33 U. S. C. § 1251 et al.), and any amendatory or supplementary acts thereto, and State law. The list shall include a description of each project and its purpose, impact, cost, and construction schedule, and an explanation of the manner in which priorities were established. The priority system and project priority list for the ensuing fiscal year shall be submitted to the Legislature on or before January 15 of each year on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively, and shall cause the project priority list to be introduced in each House in the form of legislative appropriations bills, and shall refer these bills to the Senate Energy and Environment Committee and the General Assembly Agriculture and

Environment Committee, or their successors, for their respective consideration.

b. Within 60 days of the referral thereof, the Senate Energy and Environment Committee and the General Assembly Agriculture and Environment Committee shall, either individually or jointly, consider the legislation containing the project priority list, and shall report the legislation, together with any modifications, out of committee for consideration by each House of the Legislature. On or before April 1 of each year, the Legislature shall approve an appropriations act containing the project priority list, including any amendatory or supplementary provisions thereto, which act shall include the authorization of an aggregate amount of funds of the trust to be expended for loans and guarantees for the specific projects, including the individual amounts therefor, on the list, as modified by the Senate Energy and Environment Committee and the General Assembly Agriculture and Environment Committee.

c. The trust shall not expend any money for a loan or guarantee during a fiscal year for any wastewater treatment system project unless the expenditure is authorized pursuant to an appropriations act in accordance with the provisions of this section.

C. 58:11B-21 Financial plan.

21. On or before May 15 of each year, the trust shall submit to the Legislature a financial plan designed to implement the financing of the projects on the project priority list approved pursuant to section 20 of this act. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the trust which the trust intends to issue, including the amounts thereof and the terms and conditions thereof, a list of loans to be made to local government units, including the terms and conditions thereof and the anticipated rate of interest per annum and repayment schedule therefor, and a list of loan guarantees or contracts to guarantee the payment of all or a portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of a wastewater treatment system project, and the terms and conditions thereof. The financial plan shall also set forth a complete operating and financial statement covering its proposed operations during the forthcoming fiscal year, including amounts of income from all sources, and the uniform schedule of fees and charges established by the trust pursuant to subsection o. of section 5 of this act, and the amounts to be

derived therefrom, and shall summarize the status of each wastewater treatment system project for which loans or guarantees have been made by the trust, and shall describe major impediments to the accomplishment of the planned wastewater treatment system projects.

C. 58:11B-22 Approval by Legislature.

22. a. The trust shall submit the financial plan required pursuant to section 21 of this act to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively.

b. Unless the financial plan as described in the submission is approved by adoption of a concurrent resolution of both houses within the time period prescribed in this subsection, the financial plan shall be deemed disapproved and the trust shall not undertake any of the proposed activities contained therein. The President and the Speaker shall cause a concurrent resolution of approval of the trust's financial plan to be placed before the members of the respective houses for a recorded vote within the time period. The time period shall commence on the day of submission and expire on the forty-fifth day after submission or for a house not meeting on the forty-fifth day, on the next meeting day of that house.

C. 58:11B-23 Expenditure of funds.

23. No funds from State sources or State bond issues used to capitalize the trust shall be available for use by the trust unless appropriated by law to the trust. No funds shall be expended by the trust for its annual operating expenses unless appropriated by law to the trust. Unless required to be otherwise applied pursuant to law, funds generated by the operation of the trust, including, but not limited to: proceeds from the sale of the trust's bonds, notes or other obligations; revenues derived from investments by the trust; loan repayments from local government units; and fees and charges levied by the trust, may thereafter be applied in accordance with the provisions of this act for any corporate purpose of the trust without appropriation; except that the funds shall only be used to make loans or guarantees approved by the Legislature in accordance with the provisions of sections 20, 21 and 22 of this act. The trust shall not apply for, receive, accept or utilize any federal funds, including funds which are authorized pursuant to the "Federal Water Pollution Control Act

Amendments of 1972," Pub. L. 92-500 (33 U. S. C. § 1251 et al.), and any amendatory or supplementary acts thereto.

C. 58:11B-24 Annual audit.

24. a. The trust shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants selected by the State Treasurer and the cost thereof shall be considered as an expense of the trust and a copy thereof shall be filed with the Governor, State Treasurer, Senate and General Assembly. Notwithstanding the provision of any law to the contrary, the State Auditor or his legally authorized representative may examine the accounts or books of the trust.

b. All officers, departments, boards, units, divisions and commissions of the State are authorized to render any services to the trust as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the trust. The cost and expense of those services shall be met and provided for by the State governmental units rendering the services.

C. 58:11B-25 Rules, regulations for loans, guarantees.

25. The trust shall establish the rules and regulations governing the making and use of loans or guarantees, including, but not limited to, procedures for the submission of loan guarantee requests, standards for the evaluation of requests, provisions implementing priority systems for projects, reporting requirements of the recipient of any loan or guarantee concerning the progress and the expenditure of funds, and limitations, restrictions or requirements concerning the use of loan funds as the trust shall prescribe; provided that the rules and regulations shall be in compliance with the terms and provisions of this act relating to the making of or eligibility for loans or guarantees for projects generally or for any particular type or class of projects.

C. 58:11B-26 Affirmative action program.

26. a. The trust shall adopt the rules and regulations requiring a local government unit which receives a loan or guarantee for a project to establish an affirmative action program for the hiring of minority workers in the performance of any construction contract for that project and to establish a program to provide opportunities for socially and economically disadvantaged contractors and vendors to supply materials and services for the contract, consistent with the provisions of the "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5-1 et seq.). Not less than 10% of the

amount of any contract for construction, materials or services for a project shall be awarded to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in section 8(a) and 8(d) of the "Small Business Act," Pub. L. 75-536 (15 U. S. C. § 637 (a) and (d)), and any regulations promulgated pursuant thereto.

b. The trust shall adopt the rules and regulations requiring a local government unit which receives a loan or guarantee for a project to pay not less than the prevailing wage rate to workers employed in the performance of any construction contract for that project, in accordance with the rate determined by the Commissioner of Labor pursuant to P. L. 1963, c. 150 (C. 34:11-56.25 et seq.).

C. 58:11B-27 Rule adoption procedure.

27. The trust shall adopt such rules and regulations as it deems necessary to effectuate the purposes of this act, including those required pursuant to sections 25 and 26 of this act, in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

28. It is the intent of the Legislature that if there is any conflict or inconsistency between the provisions of this act and the provisions of any other laws pertaining to matters herein established or provided for, or between any rules and regulations adopted under this act and the rules and regulations adopted under any other law, to the extent of the conflict or inconsistency, the provisions of this act and the rules and regulations adopted hereunder shall be enforced and the provisions of the other laws, and the rules and regulations adopted thereunder, shall be of no effect.

29. There is appropriated from the General Fund to the New Jersey Wastewater Treatment Trust the sum of \$250,000.00 to effectuate the purposes of this act.

30. This act shall take effect upon the approval by the people of the "Wastewater Treatment Bond Act of 1985," P. L. 1985, c. 329.

Approved September 23, 1985.

CHAPTER 335

AN ACT concerning resource recovery facilities, and appropriating moneys from the "Natural Resources Fund" and 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 "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P. L. 1985, c. 330, from the "Natural Resources Fund" established pursuant to the "Natural Resources Bond Act of 1980," (P. L. 1980, c. 70), the amount of \$50,000,000.00 for use consistent with the provisions of subsection a. of section 4 of P. L. 1980, c. 70.

2. There is appropriated to the Department of Environmental Protection from the "Resource Recovery and Solid Waste Disposal Facility Fund" established pursuant to the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985" P. L. 1985, c. 330, the sum of \$37,500,000.00 for the purpose of providing interest-free loans to the following county governments for the design, acquisition and construction of resource recovery facilities as follows:

Bergen county	\$15,000,000
Essex county	\$15,000,000
Camden county	\$7,500,000

Payments of principal and interest on loans made by the department pursuant to this section shall be repaid to the "Natural Resources Fund," except that upon the approval by the voters of P. L. 1985, c. 331, payments of principal and interest shall be made to the "Resource Recovery and Solid Waste Disposal Facility Fund," pursuant to the terms of the loan agreements.

3. This act shall take effect upon the approval by the voters of the "Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985," P. L. 1985, c. 330.

Approved September 23, 1985.

CHAPTER 336

AN ACT concerning the "New Jersey Wastewater Treatment Trust,"
and amending P. L. 1985, c. 334.

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

1. Section 6 of P. L. 1985, c. 334 (C. 58:11B-6) is amended to read as follows:

C. 58:11B-6 Issuance of bonds.

6. a. Except as may be otherwise expressly provided in this act, the trust may from time to time issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations or the interest or redemption premiums thereon to be funded or refunded have or have not become due, the establishment or increase of reserves or other funds to secure or to pay the bonds, notes or other obligations or interest thereon and all other costs or expenses of the trust incident to and necessary to carry out its corporate purposes and powers.

b. Whether or not the bonds, notes or other obligations of the trust are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds, notes and other obligations are made negotiable instruments within the meaning of and for the purposes of Title 12A, subject only to the provisions of the bonds, notes and other obligations for registration.

c. Bonds, notes or other obligations of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear any date or dates, mature at any time or times, bear interest at any rate or rates of interest per annum, be in any denomination or denominations, be in any form, either coupon, registered or book entry, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of

public and private debts, at any place or places within or without the State, and be subject to any terms of redemption by the trust or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the trust authorizing the issuance of bonds, notes or other obligations may provide that the bonds, notes or other obligations be secured by a trust indenture between the trust and a trustee, vesting in the trustee any property, rights, powers and duties in trust consistent with the provisions of this act as the trust may determine.

d. Bonds, notes or other obligations of the trust may be sold at any price or prices and in any manner as the trust may determine. Each bond, note or other obligation shall mature and be paid not later than 20 years from the effective date thereof, or the certified useful life of the project or projects to be financed by the bonds, whichever is less.

All bonds of the trust shall be sold at such price or prices and in such manner as the trust shall determine, after notice of sale, published at least three times in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in New Jersey or the city of New York, the first notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the trust, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The trust may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

e. Bonds, notes or other obligations of the trust may be issued under the provisions of this act without obtaining the consent of any department, division, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions or things which are specifically required by this act.

f. Bonds, notes or other obligations of the trust issued under the provisions of this act shall not be a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of

the State or any political subdivision, but all these bonds, notes and other obligations, unless funded or refunded by bonds, notes or other obligations, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond, note and obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in this act and that neither the State, nor any political subdivision thereof, is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations.

g. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the trust, shall not exceed \$600,000,000.00. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the trust, which shall be issued for refunding purposes, whenever the refunding shall be determined to result in a debt service savings, as hereinafter provided:

(1) Upon the decision by the trust to issue refunding bonds, and prior to the sale of those bonds, the trust shall transmit to the Joint Appropriations Committee's Subcommittee on Transfers, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public sale and the reasons therefor.

(2) The Joint Appropriations Committee's Subcommittee on Transfers shall have the authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with paragraph (1) of this subsection. The subcommittee shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

(3) No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Appropriations Committee's Subcommittee on Transfers as set forth in paragraphs (1) and (2) of this subsection.

(4) Within 30 days after the sale of the refunding bonds, the trust shall notify the Subcommittee on Transfers of the result of

that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

(5) The subcommittee shall review all information and reports submitted in accordance with this subsection and may, on its own initiative, make observations to the trust, or to the Legislature, or both, as it deems appropriate.

h. Each issue of bonds, notes or other obligations of the trust may, if it is determined by the trust, be general obligations thereof payable out of any revenues, receipts or funds of the trust, or special obligations thereof payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds, notes or other obligations, and may be secured by one or more of the following:

(1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal of notes, bonds or other obligations issued to the trust by one or more local government units, and any other payment made to the trust pursuant to agreements with any local government units, or a pledge or assignment of any notes, bonds or other obligations of any local government unit and the rights and interest of the trust therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local government units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interest of the trust therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds, notes or other obligations;

(4) Pledge of the receipts to be derived from the payments of State aid, payable to the trust pursuant to section 12 of this act;

(5) A mortgage on all or any part of the property, real or personal, of the trust then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the trust by any person or entity, public or private, including one or more local government units and the rights and interest of the trust therein.

i. The trust shall not issue any bonds, notes or other obligations, or otherwise incur any additional indebtedness, on or after 20 years from the effective date of this act.

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

C. 58:11B-11 Reserve, guarantee funds.

11. a. The trust shall establish reserve and guarantee funds into which shall be deposited the proceeds from any State bond issue authorized for deposit in the trust or other funds appropriated by law to the trust for deposit in the reserve or guarantee funds. The reserve fund shall be used by the trust to secure debt issued by the trust. The guarantee fund shall be used by the trust to secure debt issued by a local government unit.

b. The trust may establish any reserves, funds or accounts as it may determine necessary or desirable to further the accomplishment of the purposes of the trust or to comply with the provisions of any agreement made by or authorized in any resolution of the trust.

3. This act shall take effect immediately.

Approved September 23, 1985.

CHAPTER 337

AN ACT to reduce the administrative procedures required by the State of New Jersey for public use airport sponsors to obtain federal funding, amending P. L. 1947, c. 315 and repealing Sections 2 through 4 of P. L. 1947, c. 315.

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

1. Section 1 of P. L. 1947, c. 315 (C. 6:3-1) is amended to read as follows:

C. 6:3-1 Department of Transportation approval.

1. No county, municipality, public agency, authority or private airport owner in this State, whether acting alone or jointly with another county, municipality, public agency or authority, shall submit to the Administrator of the Federal Aviation Administration of the United States any project application for federal funding under the provisions of section 501 of the Act of Congress approved September third, one thousand nine hundred and eighty-two, being Public Law 248, 97th Congress, known as the "Airport and Airway Improvement Act of 1982," or any amendment thereof and supple-

ment thereto, or under any other federal law, unless the project and the project application have been first approved by the State Department of Transportation. No grant offer or amended grant offer shall be accepted by an airport sponsor without approval by the State Department of Transportation.

Repealer.

2. Sections 2, 3 and 4 of P. L. 1947, c. 315 (C. 6:3-2, 6:3-3 and 6:3-4) are repealed.

3. This act shall take effect immediately.

Approved October 11, 1985.

CHAPTER 338

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

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

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices relating to such election were not published as required by the provisions of N. J. S. 18A:14-19, provided that notices of such election were posted prior to the election in accordance with the provisions of N. J. S. 18A:14-19; and provided further, that no action, suit or other proceedings of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved October 15, 1985.

CHAPTER 339

AN ACT concerning provision for time off from work for volunteer firemen in certain cases.

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

C. 11:24A-2.1 Time off for county employees.

1. The governing body of a county may, by resolution or ordinance, as appropriate, grant time off from work with pay for county employees who are members of a volunteer fire company serving the municipality, volunteers in first aid or rescue squads serving the municipality or volunteer drivers of municipally-owned or operated ambulances when the employees are called to respond to alarms occurring during the hours of their employment and they are working in the municipality in which they are members, volunteers or drivers.

The governing body may, by resolution or ordinance, as appropriate, promulgate rules and regulations to carry out the purposes of this act. Rules and regulations may include limitations on strategic employees necessary for the operation of county government who may be absent from work in order to respond to alarms.

2. This act shall take effect immediately.

Approved October 18, 1985.

CHAPTER 340

AN ACT concerning the taxation of motor fuels and amending R. S. 54:39-55 and R. S. 54:39-64.

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

1. R. S. 54:39-55 is amended to read as follows:

Crime of 4th degree.

54:39-55. Any person, firm, partnership, association or corporation or any officer or agent thereof failing to pay the tax as herein

provided, or violating any of the provisions of article 3 of this chapter (R. S. 54:39-17 et seq.), or making any false statement, or concealing any material fact in any report or affidavit is guilty of a crime of the fourth degree.

2. R. S. 54:39-64 is amended to read as follows:

Taxation of imported fuel; special licenses.

54:39-64. (a) Any person importing fuels, as herein defined, into this State, for the purpose of selling same incidental to his principal business of buying and selling fuels in this State or for the purpose of consuming the same, or for the purpose of blending the same with other fuels upon which the tax provided for in this chapter has been prepaid, or is properly owing to the State, shall be required to obtain a special permit (special license A) from the Director of the Division of Taxation and shall furnish bond as provided in this chapter. Such person shall be required to file a report with the director, disclosing the amount of fuel so imported, and such additional information as the director may require for the proper administration of this chapter, within five days from the receipt of such fuels. Upon application to the director, the period within which such reports shall be filed may be extended to a period of 60 days, if it shall be deemed advisable by the director. A tax, at the rate per gallon specified in section 54:39-27 of this Title, on the total number of gallons so imported, together with any unpaid tax on such other fuels, shall be paid to the director and accompany the report.

Every person importing fuel into this State shall be presumed to have sold, consumed or to have blended such fuel, and proof of such importation shall be prima facie evidence that such fuel is taxable, as provided herein.

Any person violating any provisions of this subsection (a) shall be guilty of a crime of the fourth degree.

(b) Any person purchasing motor fuel on which there has been no charge made to him of the motor fuel tax thereon, if the same be thereafter used or sold for use in the operation of a motor vehicle upon the highways, shall be required to obtain a special license B from the director and shall be required to pay a tax, at the rate per gallon specified in section 54:39-27 of this Title, on the total number of gallons so used or sold for use. Such person shall, on or before the fifteenth day of each month, render a report to the director, stating the number of gallons of fuel purchased, used or sold for use in this State by him during the preceding calendar

month and such additional information as the director may require. The tax, as herein provided, shall be paid to the director and accompany such report.

Any person who, having purchased motor fuel on which there has been no charge made to him of the motor fuel tax thereon, shall thereafter use or sell such motor fuel for use in the operation of a motor vehicle upon the highways without having first secured a special license B from the director, shall, in the absence of a prior conviction, be liable to a penalty of \$25.00 for each offense but not in excess of \$100.00 for an aggregate number of offenses not exceeding five; a penalty of \$25.00 for each offense but not in excess of \$250.00 for an aggregate number of offenses in excess of five; provided, however, that in the event of a prior conviction the penalty shall be \$100.00 for each offense. Any person who, after conviction, shall fail to forthwith pay any of the foregoing penalties imposed against him, shall be imprisoned for a period of not less than 10 nor more than 30 days.

Any person not holding a special license B who shall fail to file the report required by this subsection (b) on the day it shall be due, shall forfeit as a penalty an amount as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes. Any such person who shall fail to pay the tax required by this subsection (b) on the day when it shall be due shall forfeit as a penalty an amount equivalent to 20% of the tax due. In addition to such penalty, such person shall pay interest on the tax due at the rate of 1½% for each month or fraction thereof that the tax remains unpaid, to be calculated from the date the tax was originally due until the date of actual payment.

Any holder of a special license B who shall fail to file the report required by this subsection (b) on the day it shall be due, shall forfeit as a penalty an amount as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes. Any holder of a special license B who shall fail to pay the tax required by this subsection (b) on the date when it shall be due shall forfeit as penalties and interest an amount as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes.

The director, if satisfied that the failure to file the report or pay the tax was excusable, may remit or waive the payment of the whole or part of any penalty and the payment of any interest

charge as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes.

All civil penalties and interest assessed pursuant to the provisions of this subsection (b) shall be payable forthwith after notice and demand shall be mailed by the director to the person concerned. If payment be not made within 15 days thereafter, the penalty and interest shall be sued for in the manner set forth in sections 54:39-59 and 54:39-60 of the Revised Statutes.

Any person who knowingly makes any false statement or conceals any material fact in the report required by this subsection (b) is guilty of a crime of the fourth degree.

Any person who knowingly fails to file the report required by this subsection (b) or knowingly fails to pay the tax required by this subsection (b), when the amount of payable tax thereby avoided is \$400.00 or more, is guilty of a crime of the fourth degree.

(c) This section, including subsections (a) and (b), shall not apply to distributors duly licensed in accordance with the provisions of this chapter.

3. This act shall take effect immediately.

Approved October 18, 1985.

CHAPTER 341

AN ACT concerning the taxation of cigarettes and amending P. L. 1948, c. 65 and P. L. 1982, c. 40.

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

1. Section 301 of P. L. 1948, c. 65 (C. 54:40A-8) is amended to read as follows:

C. 54:40A-8 Tax imposed; rate.

301. Tax imposed; rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of \$0.09½ for each 10 cigarettes or fraction thereof and a surtax equal to a percent of the average wholesale price, which percent shall be the same as the rate of tax imposed on retail sales pursuant to the "Sales and Use Tax Act," P. L. 1966, c. 30

(C. 54:32B-1 et seq.), rounded to the next highest cent but not less than \$0.02½ for each 10 cigarettes or fraction thereof. For packs containing 25 cigarettes the total tax and surtax shall be 125% of the tax and surtax on packs containing 20 cigarettes.

2. Section 4 of P. L. 1982, c. 40 (C. 54:40A-8.2) is amended to read as follows:

C. 54:40A-8.2 Cigarette surtax.

4. For the purpose of computing the surtax pursuant to section 301 of P. L. 1948, c. 65 (C. 54:40A-8), the Director of the Division of Taxation shall determine and cause to be published every six months commencing January 1, 1983, the average wholesale price of cigarettes in the State based upon the best available current data. Using the price so determined as the base price, the director shall determine, and notify all persons required to report under this act, and cause to be published in the New Jersey Register, the cigarette surtax due pursuant to section 301 of P. L. 1948, c. 65 (C. 54:40A-8) on each 10 cigarettes or fraction thereof, expressed in cents, rounded up to the nearest cent, during the succeeding six months.

3. Section 401 of P. L. 1948, c. 65 (C. 54:40A-11) is amended to read as follows:

C. 54:40A-11 Director to provide revenue stamps.

401. Director to provide revenue stamps. The taxes imposed and levied by this act shall be paid through the use of stamps, except as provided in section 205 (Consumers) of this act. The director shall secure stamps of such designs and denominations as he shall prescribe, suitable to be affixed to packages, and provide for the sale thereof to licensed distributors. Only licensed distributors shall affix and cancel stamps and no distributor shall affix or cancel any stamp except at the tax rate in effect on the date of such affixing or cancellation; except that on the effective date of a tax rate increase or of a surtax or of an increase in a surtax, imposed under this act, licensed distributors and wholesale dealers must take a physical inventory of cigarettes on hand at the close of business prior to the date of the tax increase or surtax or surtax increase imposed under this act and must pay any additional tax for all cigarettes bearing stamps at the rate in effect prior to the tax increase. The director shall prescribe the method of collecting the additional tax. The director shall not authorize any person to sell revenue stamps except his duly constituted agents and assis-

tants. On sales of revenue stamps the director shall allow, as compensation for the services and expenses of the distributor in affixing and handling of such stamps, a discount of 1.156% of the face amount of any sale of 1,000 stamps or more; provided that the distributor has complied with all the provisions of this act; and provided, however, that the director shall be empowered to adjust such discount whenever an increase in the surtax is required under section 4 of P. L. 1982, c. 40 (C. 54:40A-8.2); and provided further, however, that the director shall be empowered to adjust such discount to provide equivalent compensation with respect to the face value of each 1,000 stamps or more required for packages of cigarettes which contain 25 cigarettes. No discount shall be allowed on any sale of less than 1,000 stamps and stamps shall not be sold in blocks of less than 100 stamps.

4. This act shall take effect immediately and apply retroactively to September 1, 1985.

Approved October 18, 1985.

CHAPTER 342

AN ACT relating to joint action by the State of New Jersey and the Commonwealth of Pennsylvania and through the instrumentality of the Delaware River Joint Toll Bridge Commission; authorizing the Governor to enter into a supplemental compact or agreement on behalf of the State of New Jersey with the Commonwealth of Pennsylvania, supplementing the compact or agreement entitled "Agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Toll Bridge Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented; authorizing the Commonwealth of Pennsylvania and State of New Jersey to construct a new bridge in the vicinity of Easton, Pennsylvania and Phillipsburg, New Jersey and repealing parts of the statutory law.

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

C. 32:8-17 New Delaware River bridge authorized.

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, supplementing the compact or agreement entitled "Agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Toll Bridge Commission as a body corporate and politic and defining its powers and duties," which was executed on behalf of the State of New Jersey by its Governor on December 18, 1934, and on behalf of the Commonwealth of Pennsylvania by its Governor on December 19, 1934, and which compact or agreement was thereafter amended and supplemented by compacts or agreements executed by the respective States, such supplemental compact or agreement to be in substantially the following form:

"Supplemental agreement between the Commonwealth of Pennsylvania and the State of New Jersey supplementing the compact or agreement entitled 'Agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Toll Bridge Commission as a body corporate and politic and defining its powers and duties,' as heretofore amended and supplemented, to establish the purposes for which the commission may fix, charge and collect tolls, rates, rents and other charges for the use of commission facilities and properties.

"The Commonwealth of Pennsylvania and the State of New Jersey do solemnly covenant and agree, each with the other, as follows:

A. (1) Notwithstanding any other provision of the compact or agreement hereby supplemented, or any provision of law, state or federal, to the contrary, as soon as the existing outstanding bonded indebtedness of the commission shall be refunded, defeased, retired or otherwise satisfied and thereafter, the commission may fix, charge and collect tolls, rates, rents and other charges for the use of any commission facility or property and in addition to any purpose now or heretofore or hereafter authorized for which the revenues from such tolls, rates, rents or other charges may be applied, the commission is authorized to apply or expend any such revenue for the management, operation, maintenance, betterment, reconstruction or replacement (a) of the existing non-toll bridges, formerly toll or otherwise, over the Delaware river between the State of New Jersey and the Commonwealth of Pennsylvania heretofore acquired by the commission pursuant to the provisions of

the act of the State of New Jersey approved April 1, 1912 (Chapter 297), and all supplements and amendments thereto, and the act of the Commonwealth of Pennsylvania approved May 8, 1919 (Pamphlet Laws 148), and all supplements and amendments thereto, and (b) of all other bridges within the commission's jurisdiction and control. Betterment shall include but not be limited to parking areas for public transportation services and all facilities appurtenant to approved projects.

(2) The commission may borrow money or otherwise incur indebtedness and provide from time to time for the issuance of its bonds or other obligations for one or more of the purposes authorized in this supplemental agreement. The commission is authorized to pledge its tolls, rates, rents and other revenues, or any part thereof, as security for the repayment, with interest, of any moneys borrowed by it or advanced to it for any of its authorized purposes, and as security for the satisfaction of any other obligation assumed by it in connection with such loans or advances.

(3) The authority of the commission to fix, charge and collect fees, rentals, tolls or any other charges on the bridges within its jurisdiction, including the bridge at the Delaware Water Gap, is confirmed.

(4) The covenants of the State of New Jersey and the Commonwealth of Pennsylvania as set forth in Article VI of the compact to which this is a supplemental agreement shall be fully applicable to any bonds or other obligations issued or undertaken by the commission. Notwithstanding Article VI or any other provision of the commission's compact, the State of New Jersey and the Commonwealth of Pennsylvania may construct a bridge across the Delaware river in the vicinity of Easton, Pennsylvania and Phillipsburg, New Jersey within 10 miles of the existing toll bridge at that location. All the rest and remainder of the commission's compact, as amended or supplemented, shall be in full force and effect except to the extent it is inconsistent with this supplemental agreement.

B. The commission is authorized to fix, charge or collect fees, rentals, tolls or any other charges on the proposed bridge to be constructed in the vicinity of Easton, Pennsylvania and Phillipsburg, New Jersey in the same manner and to the same extent that it can do so for other toll bridges under its jurisdiction and control; provided that the United States Government has approved the bridge to be a part of the National System of Interstate and Defense Highways with 90% of the cost of construction to be con-

tributed by the United States Government and provided further that the nonfederal share of such bridge project is contributed by the commission. The commission is further authorized in the same manner and to the same extent that it can do so for all other toll bridges under its jurisdiction and control to fix, charge and collect fees, rentals, tolls or any other charges on any other bridge within its jurisdiction and control, if such bridge has been constructed in part with federal funds.

C. The consent of Congress to this compact shall constitute federal approval of the powers herein vested in the commission and shall also constitute authority to the United States Department of Transportation or any successor agency and the intent of Congress to grant any federal approvals required hereunder to permit the commission to fix, charge and collect fees, rentals, tolls or any other charges on the bridges within its jurisdiction to the extent provided in subsections A. and B. and this subsection and the commission's compact.

D. Notwithstanding the above provisions, the commission shall not fix, charge or collect fees, rentals, tolls or any other charges on any of the various bridges formerly toll or otherwise over the Delaware river between the State of New Jersey and the Commonwealth of Pennsylvania heretofore acquired by the commission pursuant to the provisions of the act of the State of New Jersey approved April 1, 1912 (Chapter 297), and all supplements and amendments thereto, and the act of the Commonwealth of Pennsylvania approved May 8, 1919 (Pamphlet Laws 148), and all supplements and amendments thereto.

E. At any time that the commission shall be free of all outstanding indebtedness, the State of New Jersey and the Commonwealth of Pennsylvania may, by the enactment of substantially similar acts, require the elimination of all tolls, rates, rents and other charges on all bridges within the commission's jurisdiction and control and, thereafter, all costs and charges in connection with the construction, management, operation, maintenance and betterment of bridges within the jurisdiction and control of the commission shall be the financial responsibility of the states as provided by law."

C. 32:8-18 Agreement binding.

2. Upon its signature on behalf of the State of New Jersey and the Commonwealth of Pennsylvania, the supplemental compact or agreement set forth in section 1 of this act shall become binding.

and shall have the force and effect of a statute of the State of New Jersey and the Delaware River Joint Toll Bridge Commission shall thereupon become vested with all the powers, rights, and privileges, and be subject to the duties, obligations, conditions and limitations contained therein, as though the same were specifically authorized and imposed by statute, and the State of New Jersey shall be bound by all of the obligations assumed by it under such supplemental compact or agreement, and the Governor shall transmit an original signed copy thereof to the Secretary of State for filing in his office.

C. 32:8-19 Congressional consent.

3. 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.

C. 32:8-20 Easton-Phillipsburg bridge.

4. Notwithstanding the authority granted to the Delaware River Joint Toll Bridge Commission in its compact to construct bridges across the Delaware river, the Commissioner of Transportation in cooperation with the Department of Transportation of the Commonwealth of Pennsylvania and the United States Department of Transportation is authorized to construct as part of the National System of Interstate and Defense Highways a bridge across the Delaware river in the vicinity of Easton, Pennsylvania and Phillipsburg, New Jersey within 10 miles of the existing toll bridge owned and operated by the commission.

The Commissioner of Transportation is further authorized to enter into an agreement with the Department of Transportation of Pennsylvania, the United States Department of Transportation and the Delaware River Joint Toll Bridge Commission providing for the operation and maintenance or the construction, operation and maintenance of the proposed Easton-Phillipsburg bridge by the commission. The provisions of the commission's compact, and all amendments and supplements thereto, shall be applicable to the construction, operation and maintenance of the bridge facility, except as otherwise provided for by federal law or in the agreement between the parties.

C. 32:8-21 Financial assistance.

5. The states, at their discretion, shall have authority to provide funds to the Delaware River Joint Toll Bridge Commission for major capital improvements to or the replacement of the commission's non-toll bridges or for such other financial assistance as may be requested.

C. 32:8-22 Powers of commission.

6. For the purposes of the location, construction, management, operation, maintenance, betterment or replacement of any bridges now existing or to be constructed within its jurisdiction and control, the commission is granted the power and authority to enter upon, use, overpass, occupy, enlarge, construct, improve or close any easement, street, road or highway located within the limits of, or to use, occupy or take property, now or hereafter vested in or held by any county or municipality.

Repealer.

7. P. L. 1968, c. 118 (C. 27:12D-1 et seq.) and section 1 of P. L. 1979, c. 214 (C. 27:12D-6) are repealed.

8. This act shall take effect immediately and shall remain inoperative until the enactment of P. L. 1985, c. 343 (C. 32:8-23), but the Governor shall not enter into the supplemental compact or agreement set forth in section 1 of this act on behalf of the State of New Jersey before passage by the Commonwealth of Pennsylvania of a substantially similar act including a substantially similar supplemental compact or agreement between the two states.

Approved October 21, 1985.

CHAPTER 343

AN ACT concerning tolls on certain bridges operated by the Delaware River Joint Toll Bridge Commission and supplementing Title 32 of the Revised Statutes.

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

C. 32:8-23 Toll authorization required.

1. Notwithstanding any other law to the contrary, with regard to any existing bridge within the Delaware River Joint Toll Bridge Commission's jurisdiction and control on which tolls were not charged or collected in 1984 and which was financed in part with federal funds, the commission may in the same manner and to the same extent that it can do so for all toll bridges under its jurisdiction and control fix, charge and collect fees, rentals, tolls or any other charges on such existing bridge only if authorized to

do so by substantially similar laws enacted by the State of New Jersey and the Commonwealth of Pennsylvania.

2. This act shall take effect upon the enactment into law by the Commonwealth of Pennsylvania of legislation having an identical effect with the provisions of this act, but if the Commonwealth of Pennsylvania shall have already enacted such legislation, then this act shall take effect immediately.

Approved October 21, 1985.

CHAPTER 344

AN ACT concerning interdistrict transportation for handicapped children and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

C. 18A:39-2.1 Interdistrict transportation bidding procedure.

1. Any board of education of a school district providing transportation for any child pursuant to N. J. S. 18A:46-23 to and from any other school district, may solicit any bid therefor, on a per pupil, per vehicle or per mileage basis, whichever is least costly to the school district of the board. The board may award any contract therefor pursuant to the provisions of chapter 39 of Title 18A of the New Jersey Statutes. Any adjustment in price authorized under the contract may be made on a per pupil, per vehicle or per mileage basis, whichever is least costly to the school district.

2. This act shall take effect immediately.

Approved October 29, 1985.

CHAPTER 345

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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. 1985, c. 209, the following amounts are appropriated from the General Fund for the following purposes:

DIRECT STATE SERVICES

62 DEPARTMENT OF LABOR

50. Economic Planning, Development and Security

54. Manpower and Employment Services

07-4535 Vocational Rehabilitation Services \$750,000

Special Purpose:

Sheltered workshop support (\$250,000)

Work activity training center (\$500,000)

2. This act shall take effect immediately and be retroactive to July 1, 1985.

Approved October 29, 1985.

CHAPTER 346

AN ACT concerning recycling grants to municipalities and the recycling tax on sanitary landfill facilities, and amending P. L. 1981, c. 278.

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

1. Section 5 of P. L. 1981, c. 278 (C. 13:1E-96) is amended to read as follows:

C. 13:1E-96 State Recycling Fund.

5. a. The State Recycling Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered jointly by the Department of Energy and the Department of Environmental Protection, and shall be credited with all tax revenue collected by the division pursuant to section 4 of this supplementary act. Interest received on moneys in the fund and sums received as repayment of principal and interest on outstanding loans made from the fund shall be credited to the fund. The Department of Energy and the Department of Environmental Protection, in their administration of the fund, are authorized to

assign to the New Jersey Economic Development Authority the responsibility for making credit evaluations of applicants for loans, for servicing loans on behalf of the two departments, and, the provisions of any other law to the contrary notwithstanding, for making recommendations as to the approval or denial of loans pursuant to this section. The departments are further authorized to pay or reimburse the authority in the amounts as the departments jointly agree are appropriate for all services rendered by the authority in connection with any assignment of responsibility under the terms of this section out of moneys held in the fund for loans and the loan guarantee program.

b. Moneys in the fund shall be allocated and used for the following purposes and no others:

(1) Not less than 45% of the estimated annual balance of the fund shall be used for the annual expenses of a five-year program for recycling grants to municipalities. The amount of these grants shall be calculated on the basis of the total number of tons of materials annually recycled from residential and commercial sources within that municipality, except that no such grant shall exceed \$25.00 per ton of materials recycled. The departments may allocate a portion of these grant moneys as bonus grants to municipalities that demonstrate high recovery rates in their recycling programs. The departments shall issue guidelines establishing a formula defining a high recovery rate and shall announce each year the total amount of moneys available in the bonus grant fund.

To be eligible for a grant pursuant to this subsection, a municipality shall demonstrate that the materials recycled by the municipal recycling program were not diverted from a commercial recycling program already in existence on the effective date of the ordinance establishing the municipal recycling program.

To be eligible for a subsequent annual grant pursuant to this subsection, a municipality shall demonstrate that at least two types of materials are currently recycled, or will be recycled in the succeeding grant year by the municipal recycling program. No recycling grant to any municipality shall be used for constructing or operating any facility for the baling of wastepaper or for the shearing, baling or shredding of ferrous or nonferrous materials;

(2) Not less than 20% of the estimated annual balance of the fund shall be used to provide low interest loans and to establish a sufficient reserve for a loan guarantee program for recycling businesses and industries;

(3) Not more than 10% of the estimated annual balance of the fund shall be used for State recycling program planning and program funding, including the administrative expenses thereof;

(4) Not more than 10% of the estimated annual balance of the fund shall be used for county and municipal recycling program planning and program funding, including the administrative expenses thereof; and

(5) Not less than 15% of the estimated annual balance of the fund shall be used for a public information and education program concerning recycling and anti-litter activities.

2. Section 4 of P. L. 1981, c. 278 (C. 13:1E-95) is amended to read as follows:

C. 13:1E-95 Recycling tax.

4. a. There is levied upon the owner or operator of every sanitary landfill facility a recycling tax of \$0.12 per cubic yard of all solid waste accepted for disposal at the facility on or after January 1, 1982. In the event that any solid waste is measured upon acceptance for disposal by other than cubic yards, the tax shall be levied on the equivalents thereof as shall be determined by the director.

b. (1) Every owner or operator of a sanitary landfill facility shall, on or before the twentieth day of the month following the close of each tax period, render a return under oath to the director on such form as may be prescribed by the director indicating the number of cubic yards of solid waste accepted for disposal and at said time owner or operator shall pay the full amount of tax due.

(2) Every owner or operator of a sanitary landfill which accepts solid waste for disposal and which is subject to the tax under subsection a. of this section shall, within 20 days after the first acceptance of this waste, register with the director on forms prescribed by him.

c. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall re-determine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

d. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

e. (1) Any person failing to file a return, failing to pay the tax, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony, or statement required or authorized by this act, or rules or regulations adopted hereunder which is willfully false, or failing to keep any records required by this act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a crime of the fourth degree.

(2) The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder shall be presumptive evidence thereof.

f. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

g. The tax imposed by this section shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of this section may be in conflict therewith.

3. This act shall take effect immediately and shall be retroactive to January 1, 1985.

Approved October 31, 1985.

CHAPTER 347

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, 1985 and regulating the disbursement thereof," approved June 29, 1984 (P. L. 1984, c. 58).

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

1. In addition to the sums appropriated under P. L. 1984, c. 58, there is appropriated from the General Fund the following sum for the purpose specified:

CAPITAL CONSTRUCTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

45 Recreational Resource Management

Capital Project:

Repair, renovation and improvement
of Kuser Mansion, and High Point
Monument, High Point State Park,
Sussex county (\$1,000,000)

Approved November 1, 1985.

CHAPTER 348

AN ACT concerning the statute of limitations for violations of the law concerning the handling or disposal of hazardous substances, and amending N. J. S. 2C:17-2 and P. L. 1970, c. 39.

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

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

Causing or risking widespread injury or damage.

2C:17-2. Causing or Risking Widespread Injury or Damage.

a. (1) A person who, purposely or knowingly, unlawfully causes an explosion, flood, avalanche, collapse of a building, release or abandonment of poison gas, radioactive material or any other harmful or destructive substance commits a crime of the second degree. A person who, purposely or knowingly, unlawfully causes widespread injury or damage in any manner commits a crime of the second degree.

(2) A person who, purposely or knowingly, unlawfully causes a hazardous discharge required to be reported pursuant to the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) or any rules and regulations adopted pursuant thereto, or who, purposely or knowingly, unlawfully causes a release or abandonment of hazardous waste as defined in section 1 of P. L. 1976, c. 99 (C. 13:1E-38) or a toxic pollutant as defined in section 3 of P. L. 1977, c. 74 (C. 58:10A-3) commits a crime of the second degree. Any person who recklessly violates the provisions of this paragraph is guilty of a crime of the third degree. The provisions of N. J. S. 2C:1-6 to the contrary notwithstanding, a prosecution for a violation of the provisions of this paragraph shall be commenced within five years of the date of the discovery of the violation.

b. A person who recklessly causes widespread injury or damage is guilty of a crime of the third degree.

c. A person who recklessly creates a risk of widespread injury or damage commits a crime of the fourth degree, even if no such injury or damage occurs.

d. A person who knowingly or recklessly fails to take reasonable measures to prevent or mitigate widespread injury or damage commits a crime of the fourth degree, if:

(1) He knows that he is under an official, contractual or other legal duty to take such measures; or

(2) He did or assented to the act causing or threatening the injury or damage.

e. For purposes of this section, widespread injury or damage means serious bodily injury to 10 or more people or damage to 10 or more habitations or to a building which would normally have contained 50 or more persons at the time of the offense.

2. Section 9 of P. L. 1970, c. 39 (C. 13:1E-9) is amended to read as follows:

C. 13:1E-9 Enforcement of solid waste regulations.

9. a. All codes, rules and regulations adopted by the department related to solid waste collection and disposal shall have the force

and effect of law. Such codes, rules and regulations shall be observed throughout the State and shall be enforced by the department and by every local board of health, or county health department, as the case may be.

The department and the local board of health, or the county health department, as the case may be, shall have the right to enter a solid waste facility at any time in order to determine compliance with the registration statement and engineering design, and with the provisions of all applicable laws or rules and regulations adopted pursuant thereto.

The municipal attorney or an attorney retained by a municipality in which a violation of such laws or rules and regulations adopted pursuant thereto is alleged to have occurred shall act as counsel to a local board of health.

The county counsel or an attorney retained by a county in which a violation of such laws or rules and regulations adopted pursuant thereto is alleged to have occurred shall act as counsel to the county health department.

Any county health department may charge and collect from the owner or operator of any sanitary landfill facility within its jurisdiction such fees for enforcement activities as may be established by ordinance or resolution adopted by the governing body of any such county. Such fees shall be established in accordance with a fee schedule regulation to be adopted by the department, pursuant to law, within 60 days of the effective date of this amendatory act and shall be utilized exclusively to fund such enforcement activities.

All enforcement activities undertaken by county health departments pursuant to this subsection shall conform to all applicable performance and administrative standards adopted pursuant to section 10 of the "County Environmental Health Act," P. L. 1977, c. 443 (C. 26:3A2-28).

b. The commissioner, a local board of health or county health department may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver for any solid waste collection or disposal facility or operation, which is established or operated in violation of this act, or of any code, rule or regulation promulgated pursuant to this act and said court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief, notwithstanding the provisions of R. S. 48:2-24.

Such relief may include, singly or in combination :

- (1) A temporary or permanent injunction;
- (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;
- (3) Assessment of the violator for any cost incurred by the State in removing, correcting or terminating the adverse effects upon water and air quality resulting from any violation of any provision of this act or any rule, regulation or condition of approval for which the action under this subsection may have been brought;
- (4) Assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by any violation of this act or any rule, regulation or condition of approval established pursuant to this act for which the action under this subsection may have been brought. Assessments under this subsection shall be paid to the State Treasurer, or to the local board of health, or to the county health department, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation.

If a proceeding is instituted by a local board of health or county health department, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the action or proceeding. The department may intervene as a matter of right in any proceeding brought by a local board of health or county health department.

c. Any person who violates the provisions of this act or any code, rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than \$25,000.00 per day, to be collected in a civil action commenced by a local board of health, a county health department, or the commissioner by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.) in the Superior Court or a municipal court, all of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given by which the violation must be eliminated in accordance with the order of the department shall constitute an additional, separate and distinct offense.

d. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such

amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including a rebate of any such penalty paid up to 90% thereof, where such person satisfies the department within one year or such other period as the department may deem reasonable that such violation has been eliminated or removed or that such order or injunction has been met or satisfied, as the case may be.

e. Any person who knowingly:

(1) Transports any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(2) Generates and causes or permits to be transported any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(3) Disposes, treats, stores or transports hazardous waste without authorization from the department;

(4) Makes any false or misleading statement to any person who prepares any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department; or

(5) Makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department 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 more than \$25,000.00 for the first offense and not more than \$50,000.00 for the second and each subsequent offense and restitution, in addition to any other appropriate disposition authorized by subsection b. of N. J. S. 2C:43-2.

f. Any person who recklessly:

(1) Transports any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(2) Generates and causes or permits to be transported any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(3) Disposes, treats, stores or transports hazardous waste without authorization from the department;

(4) Makes any false or misleading statement to any person who prepares any hazardous waste application, label, manifest, record,

report, design or other document required to be submitted to the department; or

(5) Makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department, shall, upon conviction, be guilty of a crime of the fourth degree.

g. Any person who, regardless of intent, generates and causes or permits any hazardous waste to be transported, transports, or receives transported hazardous waste without completing and submitting to the department a hazardous waste manifest in accordance with the provisions of this act or any rule or regulation adopted pursuant hereto shall, upon conviction, be guilty of a crime of the fourth degree.

h. All conveyances used or intended for use in the willful discharge, in violation of the provisions of P. L. 1970, c. 39 (C. 13:1E-1 et seq.), of any solid waste, or hazardous waste as defined in P. L. 1976, c. 99 (C. 13:1E-38 et seq.) are subject to forfeiture to the State pursuant to the provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.).

i. The provisions of N. J. S. 2C:1-6 to the contrary notwithstanding, a prosecution for a violation of the provisions of subsection e., subsection f. or subsection g. of this section shall be commenced within five years of the date of discovery of the violation.

3. This act shall take effect immediately.

Approved November 1, 1985.

CHAPTER 349

AN ACT concerning public contracts and amending and supplementing P. L. 1954, c. 48.

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

1. Section 2 of P. L. 1954, c. 48 (C. 52:34-7) is amended to read as follows:

C. 52:34-7 State bid advertising thresholds.

2. a. Any such purchase, contract or agreement may be made, negotiated, or awarded by the Director of the Division of Pur-

chase and Property or the Director of the Division of Building and Construction, as the case may be, without advertising, in any manner which he may deem effective to promote full and free competition whenever competition is practicable, if: (1) the aggregate amount involved does not exceed \$7,500.00 or the amount determined pursuant to subsection b. of this section; or (2) (Deleted by amendment, P. L. 1985, c. 107) or (3) the aggregate amount involved including labor and construction materials does not exceed \$25,000.00 or the amount determined pursuant to subsection b. of this section in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility.

When the aggregate amount involved does not exceed \$25,000.00 or the amount determined pursuant to subsection b. of this section in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility, the Director of the Division of Building and Construction may, at his discretion, delegate to the appropriate State department or using agency his authority to make, negotiate, or award a contract or agreement without advertising.

The Administrator of the General Services Administration shall establish, in accordance with the "Administrative Procedure Act" (P. L. 1968, c. 410; C. 52:14B-1 et seq.), rules and regulations concerning procedural requirements for the making, negotiating or awarding of purchases, contracts or agreements pursuant to this section.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the Director of the Division of Purchase and Property and the Director of the Division of Building and Construction of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

C. 52:34-7.1 Adjustment by Governor.

2. (New section) The Governor shall adjust the threshold amounts set forth in subsection a. of section 2 of P. L. 1954, c. 48

(C. 52:34-7) immediately pursuant to subsection b. of that section, and thereafter pursuant to subsection b. This immediate adjustment shall become effective on the 30th day after the Governor notifies the Director of the Division of Purchase and Property and the Director of the Division of Building and Construction of the adjustment.

3. This act shall take effect immediately.

Approved November 7, 1985.

CHAPTER 350

AN ACT to amend the "Casino Control Act," approved June 2, 1977 (P. L. 1977, c. 110).

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

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

C. 5:12-5 "Authorized game" or "authorized gambling game."

5. "Authorized Game" or "Authorized Gambling Game"—Roulette, baccarat, blackjack, craps, big six wheel, slot machines, minibaccarat and any variations or composites of such games, provided that such variations or composites are found by the commission suitable for casino use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate.

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

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

45. "Slot machine"—Any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or any thing of

value whatsoever or a token to be exchanged for merchandise or any thing of value, whether the payoff is made automatically from the machine or in any other manner whatsoever, except that: a. no merchandise or thing of value shall be offered as part of a payoff of any slot machine unless such merchandise or thing of value has a cash equivalent value of at least \$5,000.00, and b. the cash equivalent value of any merchandise or other thing of value shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenues as defined by section 24 of P. L. 1977, c. 110 (C. 5:12-24) or be included in determining the payout percentage of any slot machine. The commission shall promulgate rules defining "cash equivalent value" in order to assure fairness, uniformity and comparability of valuation of slot machine payoffs.

3. Section 85 of P. L. 1977, c. 110 (C. 5:12-85) is amended to read as follows:

C. 5:12-85 Additional requirements.

85. Additional Requirements. a. In addition to other information required by this act, a corporation applying for a casino license shall provide the following information:

(1) The organization, financial structure and nature of all businesses operated by the corporation; the names and personal employment and criminal histories of all officers, directors and principal employees of the corporation; the names of all holding, intermediary and subsidiary companies of the corporation; and the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the commission may require;

(2) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the commission may require, including the names, addresses and amounts held by all holders of such securities;

(3) The terms upon which securities have been or are to be offered;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

(5) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

(6) Names of persons other than directors and officers who occupy positions specified by the commission or whose compensation exceeds an amount determined by the commission, and the amount of their compensation;

(7) A description of all bonus and profit-sharing arrangements;

(8) Copies of all management and service contracts; and

(9) A listing of stock options existing or to be created.

b. If a corporation applying for a casino license is, or if a corporation holding a casino license is to become, a subsidiary, each holding company and each intermediary company with respect thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be:

(1) Qualify to do business in the State of New Jersey; and

(2) If it is a corporation, register with the commission and furnish the commission with all the information required of a corporate licensee as specified in subsection a. (1), (2) and (3) of this section and such other information as the commission may require; or

(3) If it is not a corporation, register with the commission and furnish the commission with such information as the commission may prescribe. The commission may, in its discretion, make such investigations concerning the officers, directors, underwriters, security holders, partners, principals, trustees or persons owning or beneficially holding any interest in any holding company or intermediary company as it deems necessary, either at the time of initial registration or at any time thereafter.

c. No corporation shall be eligible to hold a casino license unless each officer; each director; each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the commission has the ability to control the corporation or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

d. No corporation which is a subsidiary shall be eligible to receive or hold a casino license unless each holding and intermediary company with respect thereto:

(1) If it is a corporation, shall comply with the provisions of subsection c. of this section as if said holding or intermediary company were itself applying for a casino license; provided, however, that the commission with the concurrence of the director may waive compliance with the provisions of subsection c. hereof on the part of a publicly-traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the commission and the director are satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the publicly-traded corporation or elect one or more directors thereof; or

(2) If it is not a corporation, shall comply with the provisions of subsection e. of this section as if said company were itself applying for a casino license.

e. Any noncorporate applicant for a casino license shall provide the information required in subsection a. of this section in such form as may be required by the commission. No such applicant shall be eligible to hold a casino license unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the commission has the ability to control the applicant, or whom the commission may consider appropriate for approval or qualification, would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

4. Section 100 of P. L. 1977, c. 110 (C. 5:12-100) is amended to read as follows:

C. 5:12-100 Games and gaming equipment.

100. Games and Gaming Equipment. a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel complex except in the casino room and in secure areas used for the inspection, repair or storage of such equipment and specifically designated

for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or his employees, and is brought into or removed from the casino room at times authorized for that purpose by the commission or at other times when prior notice has been given to and written approval granted by an authorized agent of the commission.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from the casino room, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming at all casinos shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers at table games shall be made according to rules promulgated by the commission, which shall establish such minimum wagers and other limitations as may be necessary to assure the vitality of casino operations and fair odds to and maximum participation by casino patrons; provided, however, that a licensee may establish a higher minimum wager with the prior approval of the commission. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any casino patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for

each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within the casino room according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The commission shall, by regulation, establish such technical standards for licensure, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. In no event shall slot machines, including walkways between them, occupy more than 30% of the first 50,000 square feet of floor space of a casino, or more than 25% of any additional floor space of a casino larger than 50,000 square feet. The commission shall, by regulation, determine the permissible density of particular licensed slot machines or combinations thereof, based upon their size and light and noise levels, so as to create and maintain a gracious playing environment in the casino and to avoid deception or frequent distraction to players at gaming tables. The denominations of such machines shall be set by the licensee, subject to the prior approval of the commission.

i. Each casino shall be arranged in such fashion as to allow floor space for each gaming table, including the space occupied by the table, in accordance with the following:

Baccarat—300 square feet

Blackjack—100 square feet

Craps—200 square feet

Roulette—150 square feet

Big Six Wheel—150 square feet

j. Each casino shall be arranged in such fashion as to assure that gaming tables shall at all times be present, whether in use or not, according to the following:

(1) At least one baccarat table for every 50,000 square feet of casino space or part thereof;

(2) At least one craps table for every 10,000 square feet of casino space or part thereof;

(3) At least one roulette table for every 10,000 square feet of casino space or part thereof;

(4) At least four blackjack tables for every 10,000 square feet of casino space or part thereof; and

(5) No more than one Big Six Wheel and table for every 10,000 square feet of casino space or part thereof.

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks or other chips. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over \$25.00 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or his agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose.

n. It shall be unlawful for any casino key employee, other than a junket representative, or any casino employee, other than a bartender, waiter, waitress, or other casino employee who in the judgment of the commission is not directly involved with the conduct of gaming operations, to wager at any game in any casino in this State.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be

immediately deposited in a lockbox reserved for that purpose, accounted for, and placed in a pool for distribution pro rata among the dealers on a weekly basis, with the distribution based upon the number of hours each dealer has worked.

5. This act shall take effect on the 60th day after enactment.

Approved November 7, 1985.

CHAPTER 351

AN ACT concerning emergency medical services, amending P. L. 1984, c. 146 and supplementing Title 26 of the Revised Statutes.

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

C. 26:2K-21 Definitions.

1. (New section) As used in this act:

a. "Board" means the State Board of Medical Examiners;

b. "Basic life support" means a basic level of pre-hospital care which includes patient stabilization, airway clearance, cardio-pulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization and other techniques and procedures authorized by the commissioner;

c. "Commissioner" means the Commissioner of the State Department of Health;

d. "Department" means the State Department of Health;

e. "Emergency service" means a program in a hospital staffed 24 hours a day by licensed physicians trained in emergency medicine;

f. "EMT-intermediate" means a person trained in intermediate life support services and certified by the commissioner to render intermediate life support services as part of an authorized pre-hospital intermediate life support pilot program;

g. "Inter-hospital care" means those emergency medical services rendered to emergency patients in preparation for transportation and during transportation between emergency treatment facilities, and upon arrival within those facilities;

h. "Intermediate life support program" means a program authorized under this act to provide pre-hospital intermediate life support services;

i. "Intermediate life support services" means an intermediate level of pre-hospital, inter-hospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, the use of the esophageal obturator airway, and the use of military anti-shock trousers and other techniques and procedures authorized by the commissioner;

j. "Pre-hospital care" means those emergency medical services rendered to emergency patients before and during transportation to emergency treatment facilities, and upon arrival within those facilities.

2. Section 6 of P. L. 1984, c. 146 (C. 26:2K-12) is amended to read as follows:

C. 26:2K-12 Mobile intensive care units.

6. a. Only a hospital authorized by the commissioner with an accredited emergency service may develop and maintain a mobile intensive care unit, and provide advanced life support services utilizing licensed physicians, registered professional nurses trained in advanced life support nursing, and mobile intensive care paramedics.

b. A hospital authorized by the commissioner pursuant to subsection a. of this section shall provide mobile intensive care unit services on a seven-day-a-week basis.

c. The commissioner shall establish, in writing, criteria which a hospital shall meet in order to qualify for the authorization.

d. The commissioner may withdraw his authorization if the hospital or unit violates any provision of this act or rules or regulations promulgated pursuant thereto.

C. 26:2K-22 Pilot program.

3. (New section) A hospital having an accredited emergency service may apply to the department for approval to develop and maintain a pilot intermediate life support program in cooperation with first aid, rescue or emergency squads under regulations adopted by the commissioner. The pilot program shall be limited to rural areas. A pilot program that is approved by the department shall utilize EMT-intermediates for the provision of intermediate life support services. The program shall be under the direction of a licensed physician specializing in emergency medicine, who is affiliated with a hospital certified to participate in this program by the commissioner.

C. 26:2K-23 3-year limit.

4. (New section) An intermediate life support program shall not extend beyond three years of the effective date of this act. The

commissioner shall report to the Legislature no later than January 15 of each year on the effectiveness of each intermediate life support program.

C. 26:2K-24 Conditions for performance of services.

5. (New section) a. EMT-intermediates may perform intermediate life support services; provided they maintain direct voice communications with, and are taking orders from, a licensed physician or physician-directed registered professional nurse, both of whom are affiliated with a hospital which is approved by the commissioner to operate an intermediate life support program.

b. If the direct voice communications fail, an EMT-intermediate may perform any intermediate life support service for which he is certified that is included in written protocols established by the intermediate life support program hospital and approved by the commissioner, if, in the judgment of the EMT-intermediate, the life of the patient is in immediate danger and requires that care for his preservation.

C. 26:2K-25 Certification.

6. (New section) a. An EMT-intermediate shall obtain certification from the commissioner to provide pre-hospital intermediate life support services and shall make application therefor on forms prescribed by the commissioner.

b. The commissioner, with the approval of the board, shall establish written standards which an EMT-intermediate shall meet in order to obtain certification. The commissioner shall certify a candidate who provides satisfactory completion of an educational program approved by the commissioner for the training of EMT-intermediates and who passes an examination in the provision of intermediate life support services, which shall be conducted by the department at regular intervals.

c. The commissioner shall maintain a register of all applications for approval hereunder, which shall include but not be limited to:

- (1) The name and residence of the applicant;
- (2) The date of the application;

(3) Whether the applicant was rejected or approved and the date of that action.

The commissioner shall annually compile a list of certified EMT-intermediates. This list shall be available to the public.

C. 26:2K-26 Revocation.

7. (New section) The commissioner, after notice and hearing, may revoke the certification of an EMT-intermediate for violation

of any provisions of this act or of any regulations promulgated hereunder.

C. 26:2K-27 Authorization.

8. (New section) a. A hospital authorized by the commissioner pursuant to section 3 shall provide intermediate life support services on a seven-day-a-week basis.

b. The commissioner shall establish, in writing, criteria which a hospital shall meet in order to qualify for the authorization.

c. The commissioner may withdraw his authorization if the hospital or intermediate life support services violate any provision of this act or regulations promulgated pursuant thereto.

C. 26:2K-28 Advertising restrictions.

9. (New section) a. No person may advertise or disseminate information to the public that the person provides intermediate life support services, unless the person is authorized to do so pursuant to this act.

b. No person may impersonate or refer to himself as an EMT-intermediate unless he is certified pursuant to section 6 of this act.

C. 26:2K-29 Immunity.

10. (New section) No EMT-intermediate, licensed physician, hospital or its board of trustees, officers and members of the medical staff, nurses or other employees of the hospital, or officers and members of a first aid, ambulance or rescue squad shall be liable for any civil damages as the result of an act or the omission of an act committed while in training for or in the rendering of intermediate life support services in good faith and in accordance with this act.

C. 26:2K-30 Penalty.

11. (New section) Any person who violates the provisions of this act is subject to a penalty of \$200.00 for the first offense and \$500.00 for each subsequent offense. If the violation of this act is of a continuing nature, each day during which it continues shall constitute a separate offense for the purposes of this section. The penalty shall be collected and enforced by summary proceedings under "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.).

C. 26:2K-31 Rules, regulations.

12. (New section) The commissioner shall adopt such rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as he deems necessary to effectuate the purpose of this act, and the board shall adopt

such rules and regulations as it deems necessary to carry out its functions under this act.

C. 26:2K-32 Functions limited.

13. (New section) Nothing in this act shall be interpreted to permit an EMT-intermediate to perform the duties or fill the position of another health professional employed by a hospital, except that the EMT-intermediate may perform those functions that are necessary to assure the orderly transfer of a patient receiving pre-hospital intermediate life support services to hospital staff upon arrival at an emergency department and that are necessary to obtain the required clinical training in the provision of intermediate life support services required by the department.

C. 26:2K-33 Training program unaffected.

14. (New section) Nothing in this act shall be construed as interfering with an emergency service training program authorized and operated under provisions of the "New Jersey Highway Safety Act of 1971," P. L. 1971, c. 351 (C. 27:5F-1 et seq.).

C. 26:2K-34 Performance of duties by professionals.

15. (New section) Nothing in this act shall be construed to prevent a licensed and qualified member of the health care profession from performing any of the duties of an EMT-intermediate if the duties are consistent with the accepted standards of the member's profession.

16. (New section) This act shall take effect on the 90th day following enactment.

Approved November 7, 1985.

CHAPTER 352

AN ACT to establish "free fishing" days and supplementing chapter 3 of Title 23 of the Revised Statutes.

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

C. 23:3-1b "Free fishing" days.

1. The Division of Fish, Game and Wildlife, after consultation

with the Fish and Game Council, shall select two days in any given 12-month period, and consecutively thereafter, during which any person who has an actual and bona fide domicile in this State may fish in any of the waters of this State without procuring the license required pursuant to R. S. 23:3-1 et seq. or the special trout stamp required pursuant to the provisions of P. L. 1952, c. 328 (C. 23:3-57), except if the Commissioner of the Department of Environmental Protection determines that emergency conditions exist during any given 12-month period which make "free fishing" days ill-advised.

2. This act shall take effect immediately.

Approved November 8, 1985.

CHAPTER 353

AN ACT concerning the priority of liens of mortgage loans and supplementing chapter 9 of Title 46 of the Revised Statutes.

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

C. 46:9-8.1 Definitions.

1. As used in this act:

a. "Mortgage loan" means any loan or line of credit, except a construction loan, which states a maximum specified principal amount and which is secured by an interest in real property.

b. "Construction loan" means a loan for a fixed term of no more than three years which is secured by a lien on real property and which is made by the lender for the sole purpose of financing the erection, construction, completion, addition to, alteration or repair of improvements to real property.

c. "Line of credit" means an agreement whereby a lender is obligated to provide a specified amount of credit to a borrower from time to time. The agreement may include provisions to amend or change the interest rate or terms of repayment and shall be an obligation for the purposes of this section notwithstanding the inclusion of one or more of the following limitations and conditions:

(1) An expiration date of the agreement or an option of the lender to cancel the agreement on notice to the borrower;

- (2) The financial condition of any borrower;
- (3) Continued compliance by the borrower with the terms of the agreement and any mortgage or security agreement securing the amounts advanced pursuant to the agreement;
- (4) The absence of an adverse change in the value or condition of any collateral securing the agreement;
- (5) A requirement of certain procedures for activating the obligation to make advances pursuant to the agreement; or
- (6) A decision of the lender not to continue to engage in the business of providing lines of credit on terms similar to the agreement.

d. "Modification" means:

- (1) With respect to a mortgage loan other than a line of credit, a change in the interest rate, due date or other terms and conditions of a mortgage loan except an advance of principal or a substitution in the collateral; or
- (2) An advance made pursuant to a line of credit.

C. 46:9-3.2 Priority preserved.

2. Notwithstanding any other law to the contrary, the priority of the lien of a mortgage loan which by its terms is subject to 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.

C. 46:9-3.3 No outstanding indebtedness.

3. The priority of the lien of a mortgage loan shall not be affected by the fact that there may not have been any outstanding indebtedness at some time or times during the term specified in the mortgage.

C. 46:9-3.4 Prior recorded liens.

4. Liens of mortgage loans recorded prior to the effective date of this act:

- a. With respect to liens effective prior to the effective date of this act, shall continue the same priority position pursuant to the law in effect prior to this act, and

b. With respect to liens effective on or after the effective date of this act, shall have the priority provided in this act as if the mortgage loan recorded prior to the effective date of this act was recorded at the time this act became effective.

5. This act shall take effect at 12:01 a.m. of the day following enactment.

Approved November 8, 1985.

CHAPTER 354

AN ACT concerning the vesting requirements for members of county employees' pension funds in counties of the first class having a population of less than 800,000, and amending R. S. 43:10-2.

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

1. R. S. 43:10-2 is amended to read as follows:

Retirement of county employees.

43:10-2. An employee of a county of the first class who shall have served in the county's employ for a period of 20 years and reached 60 years of age, shall, upon his own application, but not later than, except as provided in this section, his attainment of age 65, be retired on half pay.

Any present employee who shall have served in the employ of the county for a period of 20 years, shall be retired in the following manner:

All members 70 years of age, or older, shall file their applications for retirement by July 1, 1977.

All members attaining 69 years of age by July 1, 1976, shall file their applications for retirement by July 1, 1977.

All members attaining 68 years of age by July 1, 1977, shall file their applications for retirement by July 1, 1978.

All members attaining 67 years of age by July 1, 1978, shall file their applications for retirement by July 1, 1979.

All members attaining 66 years of age by July 1, 1979, shall file their applications for retirement by July 1, 1980.

All members attaining 65 years of age by July 1, 1980, shall file their applications for retirement by July 1, 1981.

After July 1, 1981, all members shall file their applications for retirement immediately upon attaining 65 years of age.

Any member required to retire under this section may be continued in service on an annual basis after the required date of retirement at the request of the head of the employee's department, and with the approval of the head of the executive branch of government in a county organized under chapter 41A of Title 40 of the Revised Statutes, or, in all other counties, the board of chosen freeholders, given in written notice to the pension commission; provided, however, that in no event shall any employee be continued beyond age 70.

Any member who upon his attainment of age 65 shall have served in the employ of the county for a total of less than 20 years shall be retired on a pension equal to $2\frac{1}{2}\%$ of his average annual salary or compensation as defined in R. S. 43:10-1, multiplied by the number of years of his service.

No elected official shall be required to retire pursuant to this section. Any employee appointed to an office for a fixed term of years may continue his membership beyond the mandatory date of retirement specified herein, but shall be retired immediately thereafter.

Should any member, after having completed 10 years of service for which credit has been established in the pension fund, be separated voluntarily or involuntarily from the service, before reaching age 60, and not by removal for cause or charges of misconduct or delinquency, he may elect to withdraw his contribution from the fund as provided in R. S. 43:10-8 or to receive a deferred pension beginning at age 60 in the amount based on his years of service credited in the fund bear to the total number of years of service that he could have achieved had he continued to age 60 and qualified for the pension of one-half of the annual salary he was receiving at the time he elected the deferred pension.

Subject to the other provisions of this amendatory and supplementary act and of article 1 of chapter 10 of Title 43 of the Revised Statutes, upon and after the death of such pensioner, said pension, which the pensioner was receiving prior to his death, shall be paid to the surviving spouse, so long as he or she remains unmarried, or minor children up to 18 years of age as the case may be.

2. This act shall take effect immediately.

Approved November 8, 1985.

CHAPTER 355

AN ACT concerning the spouses of members of and retirants 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 3 of P. L. 1965, c. 89 (C. 53:5A-3) is amended to read as follows:

C. 53:5A-3 Definitions.

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any 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.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

j. "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, non-commissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means interest as determined 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.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and of

the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent Fund" shall be transferred to the retirement system established by this act.

t. "Surviving spouse" means the person to whom a member or a retirant was married on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of the surviving spouse subsequent to the member's or the retirant's death.

u. "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work day or shift.

2. Section 12 of P. L. 1965, c. 89 (C. 53:5A-12) is amended to read as follows:

C. 53:5A-12 Death benefits.

12. a. Upon the receipt of proper proofs of the death in active service of a member of the retirement system on account of which no accidental death benefit is payable, there shall be paid to the surviving spouse a pension of 50% of final compensation for the use of that spouse and children of the deceased, to continue for so 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.

In the event of death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

If there is no 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.

b. 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.

c. In no case shall the death benefit provided in subsection a. be less than that provided under subsection b.

d. 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 $3\frac{1}{2}$ times final compensation.

e. (Deleted by amendment. P. L. 1971, c. 181.)

f. (Deleted by amendment. P. L. 1971, c. 181.)

3. 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.

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 five 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 50% of final compensation for the use of that spouse and children of the deceased, to continue for so 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 3½ times final compensation.

f. Deleted by amendment.

g. Deleted by amendment.

4. Section 25 of P. L. 1965, c. 89 (C. 53:5A-25) is amended to read as follows:

C. 53:5A-25 Death after retirement.

25. Upon the death after retirement of a member of the retirement system, there shall be paid to the surviving spouse a pension of 50% of final compensation for the use of that spouse and children of the deceased, to continue for so long as the person qualifies as a "surviving spouse" for the purposes of this act; if there is no surviving spouse or in the 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.

b. (Deleted by amendment. P. L. 1980, c. 55.)

5. This act shall take effect immediately and shall be retroactive to March 19, 1985.

Approved November 12, 1985.

CHAPTER 356

AN ACT concerning cable television rates for senior citizens and supplementing P. L. 1972, c. 186 (C. 48:5A-1 et seq.).

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

C. 48:5A-11.1 Declarations.

1. It is declared that many elderly persons reside in the State whose annual net income from all sources is less than the amount

necessary to enable them to maintain decent living conditions and whose income is fixed in whole or in part so as to be not adjusted to increases in the cost of living; that the provision of the service of public utilities, and cable television, at rates reduced or discounted from inflationary levels is a necessity of life for these persons because cable television is a principal source of recreation and entertainment for the elderly and infirm; that a public exigency exists which makes the provision of reduced or discounted rate services to qualified elderly persons by cable television companies a public necessity; and that the provision of reduced rates will promote their health and welfare, thereby prolonging their productivity in the interest of the State and nation, and therefore constitutes and is declared to be a public purpose necessary for the preservation of the public convenience.

C. 48:5A-11.2 Discounted CATV rates.

2. Notwithstanding the provisions of P. L. 1972, c. 186 (C. 48:5A-1 et seq.) or of any other State law to the contrary, any CATV company providing service may establish rates or schedules which provide for a reduction or discount in rates for cable television reception service for senior citizens who meet the income and residency requirements of the "Pharmaceutical Assistance to the Aged and Disabled" program pursuant to P. L. 1975, c. 194 (C. 30:4D-20 et seq.).

The Board of Public Utilities through the Office of Cable Television shall adopt regulations for the prompt, fair and efficient establishment and maintenance of these reduced or discounted rates and schedules.

"Senior citizen" means any person 62 years of age or older who subscribes for CATV service and who does not share the subscription with more than one other person in the same dwelling unit who is less than 62 years of age.

C. 48:5A-11.3 Reduction not mandatory.

3. A municipality shall not require, as part of any franchising agreement, or renewal thereof, or as part of any negotiations leading up to a franchising agreement, or renewal thereof, that a CATV company provide the reduction or discount in rates which is permitted under section 2 of this act.

4. This act shall take effect on the 60th day following enactment.

Approved November 12, 1985.

CHAPTER 357

AN ACT concerning information about State and federal programs and laws of interest to older persons and making an appropriation.

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

C. 52:27D-28.5 Information on programs for older persons.

1. The Division on Aging in the Department of Community Affairs, established pursuant to section 2 of P. L. 1975, c. 36 (C. 52:27D-28.2) shall prepare and distribute, in a format determined by the Division on Aging, information regarding State and federal programs which benefit older persons. In continuing to fulfill these obligations, the staff of the division shall, on an ongoing basis, evaluate the need to update information so that the most comprehensive source of programs and services, as well as the rights of older persons is available.

2. There is appropriated to the Division on Aging in the Department of Community Affairs from the General Fund the sum of \$50,000.00 to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 358

AN ACT concerning the verification of certain insurance claims and amending P. L. 1983, c. 320.

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

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

C. 17:33A-6 Verification of insurance claims.

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. The commissioner shall promulgate rules and regulations requiring any or all persons or practitioners seeking payment for services or materials which will be reimbursed by an insurer to verify that the services and materials furnished were necessary and were, in fact, furnished. The furnishing of a verification required under this subsection shall be a condition precedent to payment by the insurer or recourse against the insured.

2. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 359

AN ACT concerning the taxation of sales of natural gas by public utilities to cogenerators, and amending P. L. 1940, c. 5.

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

1. Section 2 of P. L. 1940, c. 5 (C. 54:30A-50) is amended to read as follows:

C. 54:30A-50 Definitions.

2. Definitions: As used in this act—unless the context otherwise requires:

(a) “Taxpayer” means any corporation subject to taxation under the provisions of this act. A person or business entity owning or operating a cogeneration facility as defined in subsection (j) of this section shall not be deemed a corporation subject to taxation under this act unless it shall be a public utility as specifically enumerated in sections 1 and 6 of P. L. 1940, c. 5 (C. 54:30A-49 and C. 54:30A-54).

(b) “Real estate” means lands and buildings, but it does not include railways, tracks, ties, lines, wires, cables, poles, pipes, conduits, bridges, viaducts, dams and reservoirs (except that the lands upon which dams and reservoirs are situated are real estate), machinery, apparatus and equipment, notwithstanding any attachment thereof to lands or buildings.

(c) “Gross receipts” means all receipts from the taxpayer’s business over, in, through or from the whole of its lines or mains

but does not include any sum or sums of money received by the taxpayer in payment for gas or electrical energy or water sold and furnished to another public utility which is also subject to the payment of a tax based upon its gross receipts, nor any sum or sums of money received by the taxpayer from a cogenerator in payment for cogenerated electrical energy resold by the taxpayer to the producing cogenerator where produced, nor any sum or sums of money received by the taxpayer from a cogenerator in payment for natural gas sold by the taxpayer to the cogenerator and separately metered for use in a cogeneration facility, nor in the case of a street railway or traction corporation, the receipts from the operation of autobuses or vehicles of the character described in R. S. 48:15-41 through R. S. 48:15-56, inclusive, nor in the case of a sewerage corporation, an amount equal to any sum or sums of money payable by such sewerage corporation to any board, commission, department, branch, agency or authority of the State or of any county or municipality, for the treatment, purification or disposal of sewage or other wastes, nor in the case of a water purveyor, the amount which represents the water tax imposed by section 11 of P. L. 1983, c. 443 (C. 58:12A-21) and which is included in the tariff altered pursuant to section 6 of P. L. 1983, c. 443 (C. 58:12A-17).

(d) "Scheduled property" means only those classes or types of property of a taxpayer set forth in section 10 of this act and which are to be used in computing the apportionment value as herein defined.

(e) "Unit value" means the value set forth in section 10 of this act to be uniformly applied to each of the several classes or types of scheduled property in computing the apportionment value.

(f) "Apportionment value" or "apportionment valuation" means the result obtained by multiplying the quantities of each class or type of scheduled property of a taxpayer by the applicable unit value, and the addition of such results.

(g) "Public street, highway, road or other public place" includes any street, highway, road or other public place which is open and used by the public, even though the same has not been formally accepted as a public street, highway, road, or other public place.

(h) "Service connections" means the wires or pipes connecting the building or place where the service or commodity supplied by the taxpayer is used or delivered, or is made available for use or delivery, with a supply line or supply main in the street, highway,

road, or other public place, or with such supply line or supply main on private property.

(i) "State Tax Commissioner" or "director" means the Director of the Division of Taxation in the Department of the Treasury.

(j) "Cogenerator" means a person or business entity which owns or operates a cogeneration facility in the State of New Jersey, which facility is a plant, installation or other structure whose primary purpose is the sequential production of electricity and steam or other forms of useful energy which are used for industrial, commercial, heating or cooling purposes; and which is designated by the federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub. L. 95-617.

2. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 360

AN ACT concerning certain weapons and amending sections 2C:39-1 and 2C:39-3 of the New Jersey Statutes.

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

1. N. J. S. 2C:39-1 is amended to read as follows:

Definitions.

2C:39-1. Definitions. The following definitions apply to this chapter and to chapter 58:

a. "Antique firearm" means any firearm and "antique cannon" means a destructive device defined in paragraph (3) of subsection c. of this section, if the firearm or destructive device, as the case may be, is incapable of being fired or discharged, or which does not fire fixed ammunition, regardless of date of manufacture, or was manufactured before 1898, for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.

b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial

number or any other distinguishing identification mark or number on any firearm.

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.

e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person.

2. N. J. S. 2C:39-3 is amended to read as follows:

Prohibited weapons and devices.

2C:39-3. Prohibited Weapons and Devices. a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.

c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.

d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm, 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, 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 2C:39-6f., 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., or f. 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. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition 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.

3. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 361

AN ACT regulating the distribution of motor vehicles and supplementing Title 56 of the Revised Statutes.

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

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" or "new motor vehicle" means only a newly manufactured motor vehicle, except a nonconventional type of motor vehicle, and includes all vehicles propelled otherwise than by muscular power, and motorcycles, trailers and tractors, excepting those vehicles as run only upon rails or tracks, motorized bicycles, and buses, including school buses; a "nonconventional type of motor vehicle" means every vehicle 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 natural person, corporation, partnership or entity 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 natural person, corporation, partnership or entity 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.

C. 56:10-27 Sales through franchisees only.

2. It shall be a violation of this act for any motor vehicle franchisor, directly or indirectly, through any officer, agent, employee, broker or any shareholder of the franchisor, except a shareholder of 1% or less of the outstanding shares of any class of securities of a franchisor which is a publicly traded corporation, or other person, to offer to sell or sell motor vehicles, to a consumer, other than an employee of the franchisor, except through a motor vehicle franchisee.

C. 56:10-28 Prohibition of ownership by franchisor.

3. It shall be a violation of this act for a motor vehicle franchisor, directly or indirectly, through any officer, agent, employee, broker or any shareholder of the franchisor, except a shareholder of 1% or less of the outstanding shares of any class of securities of a franchisor which is a publicly traded corporation, or other person, to own or operate a place of business as a motor vehicle franchisee, except that this section shall not prohibit the ownership or operation of a place of business by a motor vehicle franchisor for a period, not to exceed 12 consecutive months, during the transition from one motor vehicle franchisee to another; or the investment in a motor vehicle franchisee by a motor vehicle franchisor if the investment is for the sole purpose of supplementing the private capital investment funds of a partner or shareholder in that motor vehicle franchisee and that partner or shareholder is not otherwise employed by or associated with the motor vehicle franchisor and would not otherwise have the requisite capital investment funds to invest in the motor vehicle franchisee, and has the right to purchase the entire equity interest of the motor vehicle franchisor in the motor vehicle franchisee within a reasonable period of time not to exceed 10 years.

C. 56:10-29 Action by franchisee.

4. A motor vehicle franchisee may bring an action against the motor vehicle franchisor which has granted its franchise, or any other person, in the Superior Court to enjoin any violation of this act and to recover, where appropriate, any damages sustained by the franchisee as a result of a violation of this act. The franchisee, if successful, shall also be entitled to costs of the action, including, but not limited to, reasonable attorney fees.

5. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 362

AN ACT concerning the sale of redevelopment agency bonds and amending P. L. 1949, c. 306.

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

1. Section 14 of P. L. 1949, c. 306 (C. 40:55C-14) is amended to read as follows:

C. 40:55C-14 Sale of redevelopment agency bonds.

14. Bonds of the agency shall be authorized by a resolution of the agency and may be issued in one or more series and shall be sold at public sale at not less than par after advertisement in a newspaper of general circulation in the municipality and in a financial paper published in the city of Philadelphia, Pennsylvania, or the city of New York, New York, one week prior to said sale, provided that said bonds may be sold at private sale without advertisement not less than par to the municipality, the State or federal government, and also may be sold at public sale to any willing buyer at less than par and at private sale to any willing buyer without advertisement at par or less than par, upon application to and prior approval of the Local Finance Board in the Department of Community Affairs. Whenever an agency shall, pursuant to P. L. 1949, c. 306 (C. 40:55C-1 et seq.), or P. L. 1956, c. 212 (C. 40:55C-30 et seq.), or the "Local Authorities Fiscal Control Law," P. L. 1983, c. 313 (C. 40A:5A-1 et seq.), issue notes for a period not exceeding five years, the agency may sell the notes at private sale without advertisement at not less than par.

2. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 363

AN ACT creating a permanent commission to study legal and ethical problems in the delivery of health care, and making an appropriation.

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

C. 52:9Y-1 Findings, declarations.

1. The Legislature finds and declares that:

a. New Jersey is a national leader in addressing the legal and ethical dilemmas in the delivery of health care posed by modern advances in science and medicine. In keeping with this leadership responsibility and the principles enunciated by the New Jersey Supreme Court in its landmark decisions in the *Quinlan*, *Grady* and *Conroy* cases, the Legislature seeks, through the establishment of the New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care, to provide a comprehensive and scholarly examination of the impact of advancing technology on health care decisions. The work of this commission will enable government, professionals in the fields of medicine, allied health care, law, and science, and the citizens of New Jersey and other states to better understand the issues presented, their responsibilities, and the options available to them.

b. Attention must be paid to ways of facilitating appropriate decision making regarding the termination or refusal of life-sustaining and other forms of care and treatment. Particular attention must be given to how decisions are to be made on behalf of incompetent persons in a variety of residential settings. An appropriate balance must be struck between the need to foster this decision making and the need to protect persons with severe disabilities from the abuses of arbitrary decision making.

c. There is a need to explore and encourage the development of innovative programs, such as hospices and homemaker services which are designed to make the final days of terminally ill persons more comfortable, dignified, and humane.

C. 52:9Y-2 Commission on Legal and Ethical Problems in Delivery of Health Care.

2. There is created a permanent commission to be known as the "New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care." The commission shall consist of 27 members to be appointed as follows: the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Health, the Commissioner of the Department of Human Services, the Public Advocate, the Ombudsman for the Institutionalized Elderly or their designees; two members of the Senate, to be appointed by the President of the Senate, not more than one of whom shall be of the same political party; two members of the General Assembly, to be appointed by the Speaker of the General Assembly, not more than one of whom shall be of the

same political party; nine public members, two to be appointed by the President of the Senate; two to be appointed by the Speaker of the General Assembly and five to be appointed by the Governor, who are distinguished in one or more of the fields of medicine, health care and health administration, law, ethics, theology, the natural sciences, the social sciences, the humanities, and public affairs.

In addition to the nine public members described above, there shall be on the commission five other public members who shall not be from health-related disciplines nor from the immediate families of persons in health-related disciplines. Of these five members, three shall be appointed by the Governor, one by the President of the Senate, and one by the Speaker of the General Assembly. In appointing these members an effort shall be made to insure that diverse viewpoints are represented on the commission.

Also on the commission shall be a representative of the New Jersey Hospital Association, a representative of the New Jersey State Nurses' Association, a representative of the New Jersey Association of Health Care Facilities and a representative of the New Jersey Association of Nonprofit Homes for the Aging, Inc. These representatives shall be selected by their organizations.

Members of the commission shall serve for three-year terms or until a successor is appointed. However, the term of every member initially appointed shall expire on December 31, 1988.

Vacancies in the membership of the commission shall be filled in the same manner as original appointments were made, and the term of any person reappointed or appointed to fill a vacancy shall only run for the balance of the three-year term that had commenced when the reappointment was made or the vacancy occurred. Members shall serve without compensation but shall be reimbursed for the reasonable travel and other out-of-pocket expenses incurred in the performance of their duties.

C. 52:9Y-3 Duties of commission.

3. It shall be the duty of the commission to:

- a. Clarify the issues posed by a rapidly developing health and science technology and highlight the facts that appear to be most relevant for informed decision making by persons as it relates to their care and treatment;
- b. Gather data about how New Jersey and other jurisdictions handle decision making regarding the termination and refusal of care and treatment;

c. Assess the need for additional programs and services relating to medical decision making;

d. Suggest improvements in public policy relating to medical treatment at various levels, not exclusively at the level of State government, and through various means including legislation;

e. Through its reports, offer guidance for people involved in making decisions, though not dictate particular choices on moral grounds.

C. 52:9Y-4 Organizational meeting.

4. The organizational meeting of the commission shall be held on the 60th day after the effective date of this act at a time and place to be designated by the Governor. The Governor or his designee shall give at least 10 days' notice of this meeting. A majority of those appointed to the commission shall elect a chairperson from among its members and shall appoint a full-time executive director. The executive director shall serve at the pleasure of the commission and shall be a person qualified by training and experience to perform the duties of the office.

C. 52:9Y-5 Public hearings; ad hoc panels.

5. a. For purposes of gathering information and the views of interested parties, the commission shall hold public hearings. The commission may establish ad hoc panels comprised of physicians, health care providers and administrators or other persons with relevant backgrounds to assist with information gathering and analysis of complex issues. Panel members shall serve without compensation but shall be reimbursed for the reasonable travel and out-of-pocket expenses incurred in the performance of their duties.

b. The commission shall be entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes, and to employ counsel and stenographic and clerical assistants and incur traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

C. 52:9Y-6 Reports at 3-year intervals.

6. The commission shall make its report to the Governor, Legislature and public on December 31, 1988 and every three years thereafter. The commission may submit interim reports as it deems desirable. The initial report and each report submitted at three-year intervals shall include:

a. A report on the current status of the law in New Jersey and other jurisdictions regarding the termination of treatment, surrogate decision making, and related issues;

b. An examination of existing practices and procedures for decision making, such as *Quinlan* ethics committees and *Grady* and *Conroy* procedures, and a determination of how well they work and where change is needed. Successful approaches in decision making should be identified so that the wider use of these approaches by the health care profession and other professions may be encouraged;

c. An examination of the use in this State and other states of advance directives, such as living wills, durable powers of attorney, and a determination of the approach best suited for New Jersey. For example, in this examination, especially with regard to legislation enacted in this State, the commission shall review whether the legislation enacted has reduced the number of applications to the court; whether it has encouraged a better dialogue between hospital administrations, hospital physicians' committees, physicians, and patients' families; whether it has promoted the preservation of life; whether the potential conflicting religious issues have been addressed; whether, consistent with the preservation of life, organ donor programs have been promoted; and whether it has reduced needless suffering for the terminally ill;

d. An identification of issues still in need of resolution in the aftermath of *Conroy* and a recommendation of a legislative solution, if necessary;

e. An examination of areas of special need, concerning persons with disabilities and a determination of what additional safeguards are required. Particular attention shall be given to the delivery of care to seriously disabled newborns and the implementation of federal legislative requirements in this area;

f. An exploration of related issues, such as the determination of death for the purpose of an organ transplant, and the value of hospices as an alternative to hospital care.

Accompanying the reports, the commission shall submit any proposed legislation which it may desire to recommend for enactment.

7. There is appropriated to the commission from the General Fund the sum of \$95,000.00 to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 364

AN ACT to amend the "Rooming and Boarding House Act of 1979," approved February 29, 1980 (P. L. 1979, c. 496).

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

1. Section 3 of P. L. 1979, c. 496 (C. 55:13B-3) is amended to read as follows:

C. 55:13B-3 Definitions.

3. As used in this act:

a. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any foster home as defined in section 1 of P. L. 1962, c. 137 (C. 30:4C-26.1), any community residence for the developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education, any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner, and any owner-occupied one-family residential dwelling made available for occupancy by not more than six guests where the primary purpose of the occupancy is to provide charitable assistance to the guests and where the owner derives no income from the occupancy. A dwelling shall be deemed "owner-occupied" within the meaning of this section if it is owned or operated by a nonprofit religious or charitable association or corporation and is used as the principal residence of a minister or employee of that corporation or association. For any such dwelling, however, fire detectors shall be required as determined by the Department of Community Affairs.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Financial services" means any assistance permitted or required by the commissioner to be furnished by an owner or operator to a resident in the management of personal financial matters, including, but not limited to, the cashing of checks, holding of personal funds for safekeeping in any manner or assistance in the purchase of goods or services with a resident's personal funds.

d. "Limited tenure" means residence at a rooming or boarding house on a temporary basis, for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

e. "Operator" means any individual who is responsible for the daily operation of a rooming or boarding house.

f. "Owner" means any person who owns, purports to own, or exercises control of any rooming or boarding house.

g. "Personal services" means any services permitted or required to be furnished by an owner or operator to a resident, other than shelter, including, but not limited to, meals or other food services, and assistance in dressing, bathing, or attending to other personal needs.

h. "Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

i. "Single room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A-1 et seq.), and which is not used for limited tenure occupancy in a hotel, motel or established guest house, regardless of the number of individuals occupying any room or rooms.

j. "Unit of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons.

2. This act shall take effect immediately.

Approved November 12, 1985.

CHAPTER 365

AN ACT providing for an endowed chair at an institution of higher education 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:72G-1 Durant Chair.

1. There is created at Saint Peter's College a distinguished chair which shall be known as the Will and Ariel Durant Chair in Humanities.

C. 18A:72G-2 Selection of scholar.

2. Saint Peter's College shall select an outstanding scholar to fill the chair on such terms and conditions as may be agreed upon, subject to the approval of the Chancellor of Higher Education and available appropriations. The person appointed to the Durant Chair may be granted tenure on appointment.

C. 18A:72G-3 Use of funds.

3. Saint Peter's College may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the research conducted by the holder of the Durant Chair.

4. The provisions of N. J. S. 18A:62-2 shall not apply to this act.

5. This act shall take effect on July 1, 1985.

Approved November 12, 1985.

CHAPTER 366

AN ACT establishing the Advanced Technology Center in Biomolecular Research in the Agricultural and Environmental Sciences, supplementing Title 18A of the New Jersey Statutes, and making an appropriation.

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

C. 18A:64J-29 Findings, declarations.

1. The Legislature finds and declares that biomolecular research in the agricultural and environmental sciences will provide many advantages to the State of New Jersey. Progress in biomolecular research will increase crop production and animal husbandry, improve the efficiency of animal reproduction, advance research in human nutrition, aid in the development of methods to reduce the dependence of agriculture on chemical fertilizers and pesticides, and develop biological processes for the destruction of toxic wastes. In recognition of the economic importance of these scientific advances to New Jersey industries, the Legislature further finds and declares the establishment of an Advanced Technology Center in Biomolecular Research in the Agricultural and Environmental Sciences would strengthen the State and serve as a stimulus for economic growth relating thereto.

C. 18A:64J-30 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education which are provided substantial and concentrated financial support to promote their development into national level bases for innovative technology research;

b. "Business incubation facilities" means low cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P. L. 1985, c. 102 (C. 52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education which are of strategic importance to the New Jersey economy under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education

provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

C. 18A:64J-31 Biomolecular research center.

3. There is established the Advanced Technology Center in Biomolecular Research in the Agricultural and Environmental Sciences, hereinafter referred to as the center, to be located in a designated private or public institution of higher education. The establishment of the center shall include a commitment from business and industry in the State to finance a percentage of the center's operating costs.

C. 18A:64J-32 Peer review panel.

4. The commission shall, as soon as is practicable, appoint a peer review panel to:

- a. Verify the need for the establishment of the center;
- b. Recommend the best configuration for the center; and
- c. Recommend the appropriate funding levels for the construction and operation of the center.

The peer review panel shall present its report to the commission for its review and consideration.

C. 18A:64J-33 Certification of need; designation of location.

5. a. The center shall not be established pursuant to section 3 of this act until such time as the commission formally certifies in writing to the Governor, the Speaker of the General Assembly, and the President of the Senate its conclusion that the establishment

of the center should proceed, and that the center will add substantially to the technological, economic, and academic growth of the State of New Jersey.

b. The commission shall designate the location of the center. The designation shall not preclude the participation of other public and private institutions of higher education and their faculties which may be considered for participation in the work of the center in the future by the commission.

C. 18A:64J-34 Appointment of director.

6. As soon as may be practicable after the establishment of the center, the participating institution or institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center. The participating institutions through the director shall:

- a. Administer and operate the center;
- b. Appoint, remove and transfer personnel;
- c. Establish programs in the center to conduct biomolecular research in the agricultural and environmental sciences; and
- d. Take all action necessary and proper for the operation of the center.

C. 18A:64J-35 Annual budget request.

7. The director of the center shall submit its annual budget request to the commission for approval.

C. 18A:64J-36 Functions of center.

8. The center where appropriate, and in consultation with the commission, shall:

- a. Make recommendations to the commission concerning innovation partnership grants;
- b. Serve as a forum for the exchange of ideas among industry, government, academia and the public;
- c. Disseminate authoritative and objective information and guidance on the many issues arising concerning biomolecular research in the agricultural and environmental sciences;
- d. Promote technology extension services to businesses engaged in agriculture and related fields;
- e. Make low-cost business incubation facilities available to new industry working in the field of agriculture and related fields; and
- f. Support and promote existing biomolecular research in the agricultural and environmental sciences and ensure that all sectors of private industry shall have ready access to the personnel and programs of the center.

C. 18A:64J-37 Existing programs continued.

9. Nothing in this act shall be construed or utilized to replace or reduce the programs conducted by Cook College of Rutgers, The State University, the New Jersey Agricultural Experiment Station or the New Jersey Cooperative Extension Service.

10. There is appropriated to the commission the sum of \$20,000.00* from the General Fund for planning and to effectuate the purposes of this act.

11. This act shall take effect on the 60th day following enactment.

Approved November 12, 1985.

* Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 366 (Assembly Committee Substitute
for Assembly Bill No. 2337 (OCR))

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Assembly Committee Substitute for Assembly Bill No. 2337 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill appropriates \$100,000 to the Commission on Science and Technology for a study to determine whether the need exists for the establishment of an Advanced Technology Center in Biomolecular Research in the Agricultural and Environmental Sciences.

Since I began my term as Governor, high technology has been one of the hallmarks of my administration. In 1984 the people of New Jersey issued what I believe was a mandate, when they overwhelmingly supported the Jobs, Science and Technology Bond Act. Since that time, I have signed legislation establishing a permanent Commission on Science and Technology and creating four academic industrial centers which are largely funded by the bond issue. Those four advanced technology centers are well on their way to establishing New Jersey as the state on the cutting edge of research in the areas of commercial and industrial applications of high technology.

The Advanced Technology Center proposed in this bill certainly deals with issues that are vital to New Jersey. While I support

the funding for such a study, I do not feel that an amount as great as \$100,000 is necessary to conduct the required review.

Accordingly, I am reducing the appropriation to \$20,000.00.

Page 4, Section 10, Line 2: Delete "\$100,000.00" and insert "\$20,000.00"

Respectfully,

THOMAS H. KEAN

Governor

CHAPTER 367

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services—State Aid

07-2540 Development of Historical Resources \$50,000*

State Aid:

Senator James F. Murray Jr.

Student Historians Fund (\$50,000*)

2. This act shall take effect immediately.

Approved November 12, 1985.

* Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 367 (Assembly Bill No. 3972)

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Assembly Bill No. 3972 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill appropriates \$99,000 to the Department of State for the Senator James F. Murray Jr. Student Historians Fund. The fund supports services of the New Jersey Historical Society's education department, which conducts a comprehensive program for schools in all areas of New Jersey.

Since its inception in 1964, the Student Historians Program has had over 20,000 participants, most of whom were secondary school students. Through the program, students have been able to participate in a variety of activities and enjoy educational publications and events.

Historically, the Murray Fund has received \$50,000 per year for its operations. Any additional monies necessary were raised through private donations. This year, however, a bill was placed before me calling for \$99,000, nearly twice the amount normally allotted for the program. While I certainly respect the excellent work of the James F. Murray Jr. Student Historians Fund, I believe that the prior funding level for the program is sufficient.

Accordingly, I am reducing the appropriation to \$50,000.

Page 1, Section 1:

"07-2540 Development of Historical Resources . . . \$99,000

State Aid:

Senator James F. Murray Jr. Student Historians Fund (\$99,000)"

This item is reduced to \$50,000.

Respectfully,

THOMAS H. KEAN

Governor

CHAPTER 368

AN ACT concerning the assumption by the State of certain increased costs of solid waste disposal at sanitary landfill facilities and the financing of the closure of these facilities, supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.), and providing an appropriation therefor.

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

C. 13:1E-169 Findings, declarations.

1. The Legislature finds that the ever-increasing costs of environmentally sound solid waste disposal necessarily impose significant economic burdens on local governments and residential taxpayers alike and put a severe strain on the ability of municipalities to meet their budgetary requirements without periodic increases in local property taxes; that while the individual escrow accounts that landfill owners are currently required to maintain for closure were mandated to assure that sufficient funds would be available upon the termination of landfills, those sanitary landfill facilities approaching capacity will not have a sufficient time to generate the needed revenues; that the proper disposal of solid waste and the environmentally sound and proper closure of sanitary landfill facilities are governmental functions affected with the public interest; that the considerable escrow and closing costs required to insure the proper closure of sanitary landfills have contributed to these escalating disposal costs or tipping fees; and that the State shall assume a concomitant share of the financial obligations created by these requirements.

The Legislature declares that it is the public policy of the State of New Jersey to provide a funding source to defray the costs of increases in landfill tipping fees required for closure and to provide needed assistance for such closures through the issuance of grants and loans to local government units to stabilize these costs in an efficient and equitable manner.

The Legislature therefore determines that it is in the public interest to establish a "Sanitary Landfill Closure and Rate Relief Fund" in the Department of Environmental Protection, which program shall provide State funding to make grants and loans to

local governments to defray the costs of increases in landfill disposal tipping fees specifically required for closure and to finance the closure of sanitary landfill facilities approaching capacity.

C. 13:1E-170 Definitions.

2. As used in this act:

“Commissioner” means the Commissioner of the Department of Environmental Protection;

“Closing costs” or “closure” means all activities and costs associated with the design, purchase, construction or maintenance of all measures required by the department, pursuant to law, in order to prevent, minimize or monitor pollution or health hazards resulting from sanitary landfill facilities subsequent to the termination of operations at any portion thereof, including, but not limited to, the costs of the placement of final earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility; except that the costs which are incurred prior to the commencement of acceptance of solid waste for disposal at any portion of a sanitary landfill facility, including, but not limited to, the initial grading and installation of liners and leachate collection systems, and the costs associated with the normal operations of a sanitary landfill facility, including, but not limited to, the placement of daily and intermediate cover and the construction of ongoing environmental improvements, shall not be included as closing costs. Any such activities which will be undertaken subsequent to the cessation of acceptance of solid waste for disposal at the sanitary landfill facility shall be considered closure activities;

“Department” means the Department of Environmental Protection;

“Local government unit” means any county or municipality, or any agency, instrumentality, authority or corporation of any county or municipality, including, but not limited to, sewerage, utility and improvement authorities, or any public body having local or regional jurisdiction over solid waste disposal, including, but not limited to, solid waste management districts, or any political subdivision of the State, authority or agency authorized pursuant to law to own or operate sanitary landfill facilities or to provide for the environmentally sound disposal of solid waste;

“Owner or operator” means and includes, in addition to the usual meanings thereof, every owner of record of any interest in

land whereon a sanitary landfill facility is or has been located; any operator of a sanitary landfill facility; and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of any sanitary landfill facility. The foregoing also includes any local government unit which is the owner or operator of any sanitary landfill facility or which is required in the utilization of any facility to pay any portion of closure costs through the payment of rates and charges for the disposal of solid waste at any sanitary landfill facility;

“Sanitary landfill facility” means a solid waste facility at which solid waste is deposited on or in the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste.

C. 13:1E-171 Sanitary Landfill Closure and Rate Relief Fund.

3. a. The “Sanitary Landfill Closure and Rate Relief Fund” (hereinafter referred to as the “fund”) is established as a special account in the Department of Environmental Protection. The fund shall be administered by the department, and shall be the depository of all moneys appropriated to the fund by the Legislature pursuant to section 9 of this act or any subsequent act for the purpose of making State grants or loans to local government units to defray costs of increases in landfill disposal tipping fees specifically required for closure and to finance the closure of sanitary landfill facilities approaching capacity. Moneys in the fund are specifically dedicated to making grants or loans to local government units for eligible closure projects as provided in section 5 of this act, and shall not be expended except in accordance with appropriations from the fund made pursuant to law. An act appropriating moneys from the fund shall identify the particular project or projects to be funded, and shall specify the terms and conditions of each grant or loan.

b. Project grants shall be for the local government unit’s portion of the closure costs, and grants shall be made only for projects which meet the eligibility requirements set forth in section 5 of this act.

c. The interest rate on loans made to local government units from the fund shall not exceed 50% of the average interest rate of the Bond Buyer Municipal Bond Index for bonds available for purchase during the last 26 weeks preceding the date of the approval of the loan by the department. All principal and interest payments on loans made from the fund shall be repaid by the local

government units into the fund and shall be deposited into the fund in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

d. When a federal agency pays part of the cost of a project, the cost of the project shall be computed after deducting the federal contribution.

C. 13:1E-172 Project priority list.

4. a. Applications and preliminary plans for closure project grants and loans shall be filed with the commissioner. The commissioner shall develop a priority system for landfill closure projects which shall establish ranking criteria and funding policies for the projects. With respect to the ranking criteria for these projects, priority shall be given to the owners and operators of sanitary landfill facilities in the following order:

(1) Those owners or operators of sanitary landfill facilities who have received, for a period of at least six months, solid waste from sources out-of-State;

(2) Those owners or operators of sanitary landfill facilities who are local government units; and

(3) Any other owners or operators of sanitary landfill facilities.

b. The commissioner shall set forth a project priority list for closure project grants and loans in accordance with the ranking criteria established pursuant to subsection a. of this section. Eligibility of an owner or operator of a sanitary landfill facility for a grant or loan for a closure project to be included on the project priority list shall be determined in accordance with the provisions of section 5 of this act. The project priority list shall include for each landfill closure project the date each project is scheduled to be certified by the department as ready for funding and shall be in conformance with applicable provisions of State law.

C. 13:1E-173 Eligibility for grants, loans.

5. a. The commissioner shall apply the criteria set forth in this section in determining the eligibility of owners and operators of sanitary landfill facilities for grants or loans to pay the closure costs of landfill closure projects. No owner or operator of a sanitary landfill facility shall be eligible for a grant or loan under this act prior to the submission for approval to the department of a financial plan for closure as required by section 8 of this act.

b. Where the Board of Public Utilities has issued an order increasing the rates and charges for solid waste disposal on the

relevant tariff filed with and approved by the board for the solid waste disposal operations of a sanitary landfill facility and where this increase, or a portion thereof, is allocated specifically in the tariff for the closure costs of the sanitary landfill facility, and where the facility has accepted for final disposal out-of-State solid waste prior to October 1, 1984, any local government unit which is required to pay a portion of the closure costs through payment of rates or charges for disposal of solid waste at the facility shall be eligible to apply for a grant for the payment of a portion of the closure costs, to the extent that the closure costs would have been borne by the out-of-State solid waste generators who had previously, but no longer, utilized the facility.

c. Where the Board of Public Utilities has issued an order increasing the rates and charges for solid waste disposal on the relevant tariff filed with and approved by the board for the solid waste disposal operations of a sanitary landfill facility and where this increase, or a portion thereof, is specifically allocated in the tariff for the closure costs of the facility, any local government unit which is required to pay any portion of the closure costs through the payment of rates or charges for disposal of solid waste at the facility shall be eligible to apply for a loan for the payment of a portion of the closure costs.

d. Upon the final approval by the Board of Public Utilities of increases in the solid waste disposal tariff with respect to a sanitary landfill facility, as set forth in this section, the board shall file with the department a copy of the order increasing the solid waste tariff, including the projected amounts thereof specifically allocated for closure costs to be generated from local government units required to pay a portion of the closure costs through the payment of rates or charges for the disposal of solid waste at the sanitary landfill facility and the proportionate amounts thereof specifically allocated for closure costs which would have been generated from the out-of-State solid waste generators who had previously, but no longer, utilized the facility.

e. Where the Board of Public Utilities has not issued an order increasing the rates or charges for solid waste disposal on the relevant tariff with respect to solid waste disposal operations of a sanitary landfill facility, or, where the Board of Public Utilities does not exercise rate setting jurisdiction or has denied a request for an order increasing the rates or charges for solid waste disposal on the relevant tariff with respect to solid waste disposal operations of a sanitary landfill facility, any owner or operator

thereof shall be eligible to apply for a loan to pay closure costs of the sanitary landfill facility, if the commissioner determines that funds currently available in the escrow account established for the facility pursuant to P. L. 1981, c. 306 (C. 13:1E-100 et seq.), or otherwise legally available from the owner or operator thereof, are inadequate to cover the required closure costs for the sanitary landfill facility.

C. 13:1E-174 Project appropriations.

6. The commissioner shall annually provide the Legislature with the project priority list for the awarding of grants and loans from the "Sanitary Landfill Closure and Rate Relief Fund" for specific eligible closure projects, as provided in section 5 of this act, and the terms and conditions of each grant or loan. No grant or loan shall be awarded except upon specific project appropriation, including the terms and conditions of the grant or loan, by the Legislature.

C. 13:1E-175 Rules.

7. The commissioner shall, pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules governing the awarding and use of loans and grants, including, but not limited to, procedures for the submission of applications, standards for the evaluation of applications, requirements for the reporting by the recipients of the expenditure of funds, and any limitations, restrictions or requirements concerning the use of a loan or grant as the commissioner may prescribe.

C. 13:1E-176 Financial plan for closure.

8. It shall remain the continuing responsibility of the owner or operator of every sanitary landfill facility to insure that the rates or charges received at the facility, whether or not these rates or charges are subject to the jurisdiction of the Board of Public Utilities pursuant to P. L. 1970, c. 40 (C. 48:13A-1 et seq.), will provide sufficient revenues for all costs, including closure costs, likely to be incurred by the facility. In order to insure the integrity of financial planning for closure, the owner or operator of every sanitary landfill facility, whether or not the rates or charges received by the facility are subject to the jurisdiction of the Board of Public Utilities, shall submit for approval to the department and, where relevant, the board, a financial plan addressing all aspects of closure. The owner or operator of every existing sanitary landfill facility for which a registration statement and engineering design have been filed with, and approved by, the depart-

ment prior to June 1, 1985 shall submit a financial plan for closure within 180 days of the effective date of this act, except that the department, or the board, as the case may be, may grant an extension of up to 180 days, if sufficient reason exists to grant the extension. The owner or operator of every new sanitary landfill facility for which a registration statement and engineering statement have been filed with the department subsequent to June 1, 1985 shall submit for approval to the department and, where relevant, the board, a financial plan for closure prior to commencement of operations, except that the department, or the board, as the case may be, may grant an extension of up to 180 days, if sufficient reason exists to grant the extension.

9. There is appropriated from the General Fund to the Sanitary Landfill Closure and Rate Relief Fund established by section 3 of this act, the sum of \$8,000,000.00* to effectuate the purposes of this act.

10. This act shall take effect immediately.

Approved November 12, 1985.

* Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 368 (Senate Bill No. 3347)

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3347 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill establishes within the Department of Environmental Protection a "Sanitary Landfill Closure and Rate Relief Fund," which would be capitalized with a \$30 million General Fund appropriation. Generally, all monies within the fund would be used for grants and loans to (1) local governments for defraying those portions of increases in solid waste disposal fees which are specifically allocated by the New Jersey Board of Public Utilities (BPU) for future closure costs of operational sanitary landfill facilities, and (2) owners or operators of those facilities for financing the closure of landfills which have already reached capacity and have been closed.

Specifically, the monies in the Sanitary Landfill Closure and Rate Relief Fund would be dedicated for "eligible" closure projects and

could only be expended in accordance with project-specific appropriations thereof by the Legislature. Any acts appropriating monies from the fund would be required to specify the particular projects to be funded and the terms and conditions of each grant or loan. The annual interest rates on all loans made from the fund could not exceed 50% of the average interest rate for all municipal bonds issued during the last 26 weeks preceding the approval of the loans by the Department of Environmental Protection. All principal and interest payments on loans would be repayable to the fund for future reappropriation by the Legislature as "second generation" landfill closure loans.

The Department of Environmental Protection would be required to annually provide the Legislature with a recommended project priority list for the awarding of grants and loans from the fund for eligible landfill closure projects. The list, which would be subject to variation by the Legislature, would also include the recommended terms and conditions for all grants and loans. In order to be eligible for assistance from the fund, all landfill owners or operators would be required to submit to the department for its approval a comprehensive financial plan which details all aspects of their respective closure plans.

All eligible landfill closure projects would be given priority for funding as follows: (1) sanitary landfill facilities owned and operated by local governments, which have received out-of-State solid waste for at least six months; (2) all other landfills owned and operated by local governments; and (3) landfills owned and operated by private entities. Landfill closure projects would qualify for grants or loans in accordance with the following eligibility criteria: (1) grants would be issued to local governments for those landfill closure costs apportionable to out-of-State solid waste haulers who are no longer using the subject landfill, which the local governments are therefore responsible for paying either directly as landfill owners and operators, or indirectly as landfill users, through increased solid waste disposal tariffs; (2) below market-rate loans would be issued to local governments for all other closure costs — those apportionable to in-State solid waste; and (3) below market-rate loans would be issued to owners and operators of private landfills for the closure costs of their facilities.

The grant-loan program established in this bill for the closure of sanitary landfills is a component of the 10-bill "compromise"

package recently passed by the Legislature for implementation of the New Jersey Environmental Trust program that I announced in my 1985 State-of-the-State message. As I have repeatedly stated during the past nine months, this "pioneer" trust program will provide *more* local governments with low-interest financing for their landfill closure, resource recovery and wastewater treatment projects on a much *faster*, and, therefore, correspondingly *cheaper* basis, than local governments could finance independently through the open public credit markets. By enabling local governments to finance their environmental projects through the innovative financing alternatives available through the trust program, the State will be accomplishing real and meaningful property tax and user-fee relief for our local citizenry. Without the financing benefits of this nationally acclaimed program, local governments would have been forced to pass their otherwise higher project financing costs through to the local taxpayers. For these reasons, I congratulate the Legislature for approving a workable compromise after three years of discussion on this issue. Any further delay would have postponed this critically important environmental program for another year, as the required State bond acts would not have been enacted in time to be approved by the voters at the November, 1985 general election.

I am also pleased that the compromise legislation passed by the Legislature is substantially similar in effect to the bills which I had originally proposed for implementation of the trust program. Significantly, the legislation includes a "trust" revolving loan program for wastewater treatment projects—one with a cost-saving "leverage financing" component which I have proposed since the beginning of my term as Governor. Also, through increases in the total State contribution for the wastewater treatment and resource recovery components of \$40 million and \$10 million, respectively, the funding capacity of the compromise program in these components is projected to equal that of my original proposed program. Although I believe that the compromise program should undergo certain technical adjustments in order to preserve the operational integrity of the trust, I am confident that after further consultation with the Legislature these few remaining issues will also be resolved through amendatory legislation.

I am concerned, however, that the compromise program entails a new \$30 million General Fund appropriation for capitalization of the landfill closure component. This unanticipated cash expendi-

ture, which would further reduce the State's projected ending balance for FY 86, contrasts with my proposed funding scenario to capitalize the landfill closure component with \$50 million in State general obligation bond proceeds. With the inclusion of minor appropriations measures pending in the Legislature which I expect to approve, the State's projected FY 86 "surplus" is already approximately 20% below the minimum "2% of budget" level recommended by the State Treasurer.

The above budgetary concerns notwithstanding, there appears to be a general consensus in the Legislature regarding the critical need for this component of the environmental trust program, which is designed to help local governments underwrite their increasing expenses for landfill closures. This need is evidenced by the fact that virtually all of the local governments which utilize private landfills are faced with major tariff increases awarded by the New Jersey Board of Public Utilities (BPU) for closure-related costs; and that local governments which own their own landfills also face substantial closure expenses as they terminate their facilities. Over 300 landfills have been shut down—but not necessarily environmentally closed—during the past several years, and most of the remaining landfill space (11 operational landfills) is either already under court order to close or will be exhausted within two years. Regardless of whether local governments own their own landfills or use private facilities, without State financing assistance they will be forced to underwrite their rising closure expenses through increased property taxes.

The Department of Environmental Protection is presently in the process of developing a comprehensive "State landfill closure plan" which will more accurately identify New Jersey's future landfill closure needs. The plan, which should be completed within the next eight to 10 months, will establish a projected time-schedule for necessary landfill closure projects. This "needs" schedule will also project the future funding levels for the landfill closure program which would be sufficient to address the "current" landfill closure needs of all local governments in the ensuing fiscal years. As was acknowledged by the Legislature during discussions regarding landfill closure, once this cost-impact study has been thoroughly reviewed it will be appropriate to begin considering the alternative State sources of stable funding which would be necessary to actually provide financing assistance to all local governments for their respective landfill closure expenses.

Through the operational framework established in this bill— which I am pleased is substantially similar in effect to my original proposed landfill closure component—the State could equitably distribute any State funds available in the future for assisting local governments in financing their landfill closure projects. Significantly, those provisions of this program which establish eligibility and priority criteria for evaluating loan and grant requests are identical to the comparable provisions of my original proposed program.

The Department of Environmental Protection has only begun to identify the needed landfill closure projects which local governments will in the future be required to pay for, either directly as landfill owners, or indirectly through increased tariffs as private landfill users. There are, however, certain specific instances where there are current and compelling needs. The most prominent examples of the State's "current" landfill closure dilemma involve the Parklands and L&D landfills in Burlington county, and the Kinsley landfill in Gloucester county. Those 17 Burlington county municipalities which utilize the privately owned Parklands landfill have been burdened with a recent four-fold increase in that facility's solid waste disposal tariff — 90% of which the BPU allocated for closure costs. Also, this tariff increase will impact upon the 19 Burlington county municipalities which currently utilize the L&D landfill, when that landfill closes in March 1986 and they begin utilizing Parklands. Since the Burlington County Superior Court had ordered Parklands landfill closed by January 1988, the BPU approved an "interim" tariff increase (pending final review) at Parklands which was sufficient to completely underwrite the substantial closure costs of that landfill over the remaining two years that it would be in operation. I believe that there is an inherent inequity in requiring these New Jersey municipalities — over a two-year period — to bear the brunt of paying for closure of a landfill which has been in operation for over 30 years. This is particularly unfair because approximately 50% of the solid waste disposed of at Parklands in recent years is actually apportionable to Philadelphia communities which (since only December 1984) have been prohibited from utilizing the landfill.

Prior to the BPU's final review of Kinsley landfill's rate request, the identical situation essentially existed for the 49 Camden, Gloucester and Salem county municipalities which utilize this privately owned landfill in Gloucester county. In response to

Kinsley's request for an 800% tariff increase, the BPU had initially awarded an "interim" 229% increase — 95% of which was allocated for closure costs. Upon final review, however, the BPU determined that the Kinsley owners had in fact already collected sufficient closure funds, and it awarded a final rate increase of only approximately 40%. More importantly, the BPU ordered Kinsley to make retroactive *refunds* to the affected municipalities and trash disposal companies using the facility, to reflect the reduced tariff. As a result of the BPU's careful review of the history of Kinsley's tariff structure, these New Jersey municipalities should not be required to exclusively pay (twice) for closure of a landfill which has been in operation for over 25 years—60% of the trash at which is apportionable to Pennsylvania communities which (only recently) are no longer utilizing the facility.

In response to a steady dwindling of available landfill space across the State, New Jersey has been rigorously attempting through the courts to ban the disposal of out-of-State solid waste within our borders. For environmental reasons I fully agree with our State court decisions which prohibit the disposal of out-of-State trash at the above-mentioned three landfills — one of my highest priorities for the upcoming four years is to ensure that New Jersey preserves its capacity to provide adequate and safe trash disposal services for our State citizenry. However, I also recognize and regret the inequitable by-product that Pennsylvania residents will therefore avoid contributing their proportionate share of the closure costs for these facilities.

The Department of Environmental Protection has advised that a minimum of \$8 million is required to effectively address the current inequities at the Parklands and L&D landfills. As stated earlier, the department is currently analyzing the State's other aggregate landfill closure needs and their projected costs. Pending completion of that study, I believe that the landfill closure component of the trust program should be capitalized for this fiscal year at a level sufficient to provide the above-mentioned 36 municipalities which are or will be utilizing Parklands landfill with grants and loans for their proportions of the closure costs of these landfills (payable through increased solid waste disposal tariffs) which are apportionable to Pennsylvania residents. Absent financial assistance from the State, these New Jersey municipalities would be forced to pass their increased landfill closure expenses through to the local taxpayers.

I am therefore reducing the FY '86 General Fund appropriation for the landfill closure component to \$8 million. This funding level is the absolute maximum which the State can afford during this fiscal year in order to preserve the fiscal integrity of its already reduced "mandated surplus."

Accordingly, the appropriation is reduced to \$8 million as follows:

Page 7, Section 9, Line 3: Delete "\$30,000,000.00" and insert "\$8,000,000.00"

Respectfully,

THOMAS H. KEAN

Governor

CHAPTER 369

AN ACT concerning sanitary landfill facilities and amending P. L. 1985, c. 368 (C. 13:1E-169 et seq.).

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

1. Section 3 of P. L. 1985, c. 368 (C. 13:1E-171) is amended to read as follows:

C. 13:1E-171 Sanitary Landfill Closure and Rate Relief Fund.

3. a. The "Sanitary Landfill Closure and Rate Relief Fund" (hereinafter referred to as the "fund") is established as a special account in the Department of Environmental Protection. The fund shall be administered by the department, and shall be the depository of all monies appropriated to the fund by the Legislature pursuant to section 9 of this act or any subsequent act for the purpose of making State grants or loans to local government units to defray costs of increases in landfill disposal tipping fees specifically required for closure and to finance the closure of sanitary landfill facilities. Monies in the fund are specifically dedicated to making grants or loans to local government units for eligible closure projects as provided in section 5 of this act, and shall not be expended except in accordance with appropriations from the fund made pursuant to law. An act appropriating monies from

the fund shall identify the particular project or projects to be funded, and shall specify the terms and conditions of each grant or loan.

b. Project grants shall be for the local government unit's portion of the closure costs, and grants shall be made only for projects which meet the eligibility requirements set forth in section 5 of this act.

c. The interest rate on loans made to local government units from the fund shall not exceed 50% of the average interest rate of the Bond Buyer Municipal Bond Index for bonds available for purchase during the last 26 weeks preceding the date of the approval of the loan by the department. All principal and interest payments on loans made from the fund shall be repaid by the local government units into the fund and shall be deposited into the fund in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

d. When a federal agency pays part of the cost of a project, the cost of the project shall be computed after deducting the federal contribution.

2. This act shall take effect upon the enactment into law of P. L. 1985, c. 368 (C. 13:1E-169 et seq.).

Approved November 12, 1985.

CHAPTER 370

AN ACT requiring banking institutions to disclose their policies regarding when certain account holders may draw against deposits.

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

C. 17:16L-1 Definitions.

1. As used in this act:

a. "Banking institution" means any State or federally chartered bank, savings bank, or savings and loan association, including a federally chartered savings bank;

- b. "Commissioner" means the Commissioner of Banking;
- c. "Deposit account" means an account in a banking institution used by the account holder for personal or family purposes.

C. 17:16L-2 Bank policy disclosure.

2. Every banking institution shall provide a written disclosure to every deposit account holder on the effective date of this act and to every applicant for a deposit account, describing the institution's policy with respect to when an account holder may draw against deposits, and shall notify in writing all of its deposit account holders of any change in the policy. All disclosures and notifications required by this act shall be made in a manner consistent with regulations promulgated by the commissioner.

C. 17:16L-3 Penalty for violation.

3. Any banking institution which willfully violates any provision of this act or any regulation promulgated in accordance therewith shall be subject to a fine of not more than \$1,000.00 for each violation, up to a maximum of \$5,000.00 in any one year, to be recovered in a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.).

4. This act shall take effect on the 60th day following enactment.

Approved November 12, 1985.

CHAPTER 371

AN ACT to amend and supplement the "New Jersey Medical Assistance and Health Services Act," approved January 15, 1969 (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 the Department 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.

A person shall not be considered a qualified applicant if, within 24 months of becoming or making application to become a qualified applicant, he has made a voluntary assignment or transfer of real or personal property, or any interest or estate in property, for less than adequate consideration. Such voluntary assignment or transfer of property shall be deemed to have been made for the purpose of becoming a qualified applicant in the absence of evidence to the contrary supplied by the applicant. This requirement shall not be applicable to Supplemental Security Income applicants or aged, blind or disabled applicants for Medicaid only unless authorized by federal law. Implementation of this requirement shall conform with the provisions of section 132 of Pub. L. 97-248, 42 U. S. C. § 1396 p. (c);

(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:

(1) 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); and

(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.

(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.

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.

2. Section 6 of P. L. 1968, c. 413 (C. 30:4D-6) is amended to read as follows:

C. 30:4D-6 Authorized 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.

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 sub-

section a. (1), (3) and (5) of section 6 of P. L. 1968, c. 413 (C. 30:4D-6a. (1), (3) and (5)) and subsection b. (1)-(10), (12), (15) and (17) of section 6 of P. L. 1968, c. 413 (C. 30:4D-6b. (1)-(10), (12), (15) and(17)).

(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-6a. (3) and (5)) 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-6b. (1), (2), (3), (4), (5), (6), (7), (10), (12), (15) and (17)).

(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-6a. (3) and (5)) 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-6b. (1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17)).

(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-6a. (3) and (5)) 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-6b. (1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17)).

(5) (a) Inpatient hospital services, subsection a.(1) of section 6 of P. L. 1968, c. 413 (C. 30:4D-6a.(1)), 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 (e) (3) of the Social Security Act Amendments of 1983, Pub. L. 98-21 (42 U.S.C. § 1395ww (e) (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-6a.(2)), 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 (e) (3) of the Social Security Amendments of 1983, Pub. L. 98-21 (42 U. S. C. § 1395 ww(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.

3. Section 7 of P. L. 1968, c. 413 (C. 30:4D-7) is amended to read as follows:

C. 30:4D-7 Duties of commissioner.

7. Duties of commissioner. The commissioner is authorized and empowered to issue, or to cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules and regulations and administrative orders, and to do or cause to be done all other acts and things necessary to secure for the State of New Jersey the maximum federal participation that is available with respect to a program of medical assistance, consistent with fiscal responsibility and within the limits of funds available for any fiscal year, and to the extent authorized by the medical assistance program plan; to adopt fee schedules with regard to medical assistance benefits and otherwise to accomplish the purposes of this act, including specifically the following:

a. Subject to the limits imposed by this act, to submit a plan for medical assistance, as required by Title XIX of the federal Social Security Act, to the federal Department of Health and Human Services for approval pursuant to the provisions of such law; to act for the State in making negotiations relative to the submission and approval of such plan, to make such arrangements, not inconsistent with the law, as may be required by or pursuant to federal law to obtain and retain such approval and to secure for the State the benefits of the provisions of such law;

b. Subject to the limits imposed by this act, to determine the amount and scope of services to be covered, that the amounts to be paid are reasonable, and the duration of medical assistance to be furnished; provided, however, that the department shall provide medical assistance on behalf of all recipients of categorical assistance and such other related groups as are mandatory under federal laws and rules and regulations, as they now are or as they may be hereafter amended, in order to obtain federal matching funds for such purposes and, in addition, provide medical assistance for the foster children specified in section 3 i. (7) of this act. The

medical assistance provided for these groups shall not be less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under federal laws and rules and regulations to obtain federal matching funds for such purposes.

The commissioner is authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to extend the scope, duration, and amount of medical assistance on behalf of these groups of categorical assistance recipients, related groups as are mandatory, and foster children authorized pursuant to section 3 i. (7) of this act, so as to include, in whole or in part, the optional medical services authorized under federal laws and rules and regulations, and the commissioner shall have the authority to establish and maintain the priorities given such optional medical services; provided, however, that medical assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain federal matching funds.

The commissioner is further authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to issue, or cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules, regulations and administrative orders, and to do or cause to be done all other acts and things necessary to implement and administer demonstration projects pursuant to Title XI, section 1115 of the federal Social Security Act, including, but not limited to waiving compliance with specific provisions of this act, to the extent and for the period of time the commissioner deems necessary, as well as contracting with any legal entity, including but not limited to corporations organized pursuant to Title 14A, New Jersey Statutes (N. J. S. 14A:1-1 et seq.), Title 15, Revised Statutes (R. S. 15:1-1 et seq.) and Title 15A, New Jersey Statutes (N. J. S. 15A:1-1 et seq.) as well as boards, groups, agencies, persons and other public or private entities;

c. To administer the provisions of this act;

d. To make reports to the federal Department of Health and Human Services as from time to time may be required by such federal department and to the New Jersey Legislature as hereinafter provided;

e. To assure that any applicant, qualified applicant or recipient shall be afforded the opportunity for a hearing should his claim for

medical assistance be denied, reduced, terminated or not acted upon within a reasonable time;

f. To assure that providers shall be afforded the opportunity for an administrative hearing within a reasonable time on any valid complaint arising out of the claim payment process;

g. To provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of this act;

h. To take all necessary action to recover any and all payments incorrectly made to or illegally received by a provider from such provider or his estate or from any other person, firm, corporation, partnership or entity responsible for or receiving the benefit or possession of the incorrect or illegal payments or their estates, successors or assigns, and to assess and collect such penalties as are provided for herein;

i. To take all necessary action to recover the cost of benefits incorrectly provided to or illegally obtained by a recipient, including those made after a voluntary divestiture of real or personal property or any interest or estate in property for less than adequate consideration made for the purpose of qualifying for assistance. The division shall take action to recover the cost of benefits from such recipient, legally responsible relative, representative payee, or any other party or parties whose action or inaction resulted in the incorrect or illegal payments or who received the benefit of the divestiture, or from their respective estates, as the case may be and to assess and collect the penalties as are provided for herein, except that no lien shall be imposed against property of the recipient prior to his death except in accordance with section 17 of P. L. 1968, c. 413 (C. 30:4D-17). No recovery action shall be initiated more than five years after an incorrect payment has been made to a recipient when the incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof;

j. To take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient in accordance with sections 6 through 12 of this amendatory and supplementary act;

k. To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability; where it is known that a third party has a liability, to treat

such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability;

l. To compromise, waive or settle and execute a release of any claim arising under this act including interest or other penalties, or designate another to compromise, waive or settle and execute a release of any claim arising under this act. The commissioner or his designee whose title shall be specified by regulation may compromise, settle or waive any such claim in whole or in part, either in the interest of the Medicaid program or for any other reason which the commissioner by regulation shall establish;

m. To pay or credit to a provider any net amount found by final audit as defined by regulation to be owing to the provider. Such payment, if it is not made within 45 days of the final audit, shall include interest on the amount due at the maximum legal rate in effect on the date the payment became due, except that such interest shall not be paid on any obligation for the period preceding September 15, 1976. This subsection shall not apply until federal financial participation is available for such interest payments;

n. To issue, or designate another to issue, subpoenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents of any party, whether or not that party is a provider, which directly or indirectly relate to goods or services provided under this act, for the purpose of assisting in any investigation, examination, or inspection, or in any suspension, debarment, disqualification, recovery, or other proceeding arising under this act;

o. To solicit, receive and review bids pursuant to the provisions of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and supplements thereto, by authorized insurance companies and non-profit hospital service corporations or medical service corporations, incorporated in New Jersey, and authorized to do business pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940, c. 74 (C. 17:48A-1 et seq.), and to make recommendations in connection therewith to the State Medicaid Commission;

p. To contract, or otherwise provide as in this act provided, for the payment of claims in the manner approved by the State Medicaid Commission;

q. Where necessary, to advance funds to the underwriter or fiscal agent to enable such underwriter or fiscal agent, in accordance with terms of its contract, to make payments to providers;

r. To enter into contracts with federal, State, or local governmental agencies, or other appropriate parties, when necessary to carry out the provisions of this act;

s. To assure that the nature and quality of the medical assistance provided for under this act shall be uniform and equitable to all recipients.

4. (New section) The establishment and continuation of this medically needy program is contingent upon the availability of a minimum 40% federal financial participation for payments made from the medical assistance recipient account.

5. This act shall take effect on April 1, 1986, but all arrangements necessary or appropriate to enable this act to become fully effective on this date shall be made as promptly as possible as though this act were effective immediately. The department shall submit to the Legislature on a monthly basis a progress report detailing the status of implementation and any problems which have been encountered.

Approved November 25, 1985.

CHAPTER 372

AN ACT establishing an effective schools program, supplementing Title 18A of the New Jersey Statutes, and making an appropriation.

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

C. 18A:6-33.7 Short title.

1. This act shall be known and may be cited as the "Effective Schools Program Act."

C. 18A:6-33.8 Findings, declarations.

2. The Legislature finds and declares that:

a. It is the policy of the State of New Jersey to provide a thorough and efficient education to all students. Other factors notwith-

standing, the quality of schools makes a difference in student achievement and all our schools can improve.

b. A growing body of research suggests means by which we can make our schools and classrooms more effective. While specific tactics may vary from school to school, the general strategy rests on collaborative planning and collegial efforts to affect the quantity and quality of academic work, expectations and standards established for students, the monitoring of academic progress and the recognition of superior achievement and performance by staff and students.

c. Efforts to improve the effectiveness of schools and classrooms require the commitment of the teachers, administrators, support staff, and school board members. The State can and should provide financial and technical support, but success depends on that commitment.

C. 18A:6-33.9 Definitions.

3. As used in this act:

a. "Commissioner" means the Commissioner of Education;

b. "Effective school plan" means the three-year plan designed to improve the performance of students in a school. Among the objectives which might be addressed in a typical plan are improvement of classroom and school environments, maximization and effective use of learning time, strengthening the sense of school community, increasing the rate of attendance, and the establishment of high expectations for student achievement;

c. "Effective schools research" means that professionally recognized body of educational research which seeks to identify explicitly the characteristics of schools and classrooms which positively affect student performance.

C. 18A:6-33.10 Eligible proposals.

4. The commissioner shall establish a grant program to encourage and facilitate the development and implementation of effective school plans by the administrative and teaching staffs of individual schools. The administrative and teaching staff of a school, with the approval of the board of education, may submit a proposal for funding under the program to the commissioner. Eligible proposals shall include each of the following to be approved:

a. An intention to use effective schools research in the development of an effective school plan;

b. A mechanism through which teachers and other educational personnel shall participate directly in the formulation, implementation and revision of the effective school plan;

c. Commitments by the board of education and the building principal to support the development and implementation of the effective school plan, as evidenced by the allocation of fiscal and other resources including a provision for inservice training as needed, a recognition that staff stability is necessary during the planning and implementation period, and a willingness to permit full participation by teachers and other educational personnel in the planning process;

d. Commitments by teachers and other educational personnel to support the development and implementation of the effective school plan, as evidenced by a willingness to participate in the planning process with or without additional remuneration.

C. 18A:6-33.11 Community participation.

5. An effective school plan developed pursuant to this act shall provide mechanisms to encourage participation of parents and community members in the educational process.

C. 18A:6-33.12 Selection criteria.

6. The commissioner shall select grant proposals from those submitted for funding for a period not to exceed three years. When selecting proposals for funding, the commissioner shall consider the quality of the proposal, the commitment of the board of education, building principal, teachers and other educational personnel, and the relative need of the school for the program.

7. There is appropriated \$500,000.00 from the General Fund to the Department of Education to effectuate the purposes of this act.

C. 18A:6-33.13 Budget "cap" exemption.

8. Funds provided to a local school district under the provisions of this act are not subject to the budget limitations established under section 25 of P. L. 1975, c. 212 (C. 18A:7A-25).

C. 18A:6-33.14 Rules, regulations.

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

10. This act shall take effect immediately.

Approved November 26, 1985.

CHAPTER 373

AN ACT concerning theft of library material.

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

C. 2C:20-12 Definitions for sections 2-4.

1. The following definitions apply to sections 2 through 4 of this act as they relate to the theft of library material:

a. "Library material" means any material, regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility;

b. "Library facility" means any public library, any library of an educational, historical, or charitable institution, organization or society, or any museum.

C. 2C:20-13 Concealment of material.

2. Any person who purposely conceals, on or off the premises of the library facility, upon his person or among his belongings, or upon the person or among the belongings of another, any library material shall be prima facie presumed to have concealed the material for the purpose of depriving the library facility of its use or benefit.

C. 2C:20-14 Detention on probable cause.

3. a. A law enforcement officer, a special officer, or an employee of a library facility who has probable cause for believing that a person has willfully concealed library material and that he can recover the material by taking the person into custody, may, for the purpose of attempting to recover the material, take the person into custody and detain him in a reasonable manner for a reasonable time. Taking the person into custody shall not render the law enforcement officer, the special officer, or the employee of a library facility civilly or criminally liable.

b. Any law enforcement officer who has probable cause for believing that a person has committed the offense of theft of library material may arrest the person without warrant.

c. An employee of a library facility who causes the arrest of a person for theft of library material, as provided for in this act, shall not be civilly or criminally liable where the employee has probable cause for believing that the person arrested committed the offense of theft of library material.

C. 2C:20-15 Sign required.

4. All library facilities shall post at their primary entrances and exits a conspicuous sign to read as follows: IN ORDER TO PREVENT THE THEFT OF BOOKS AND LIBRARY MATERIAL, STATE LAW AUTHORIZES THE DETENTION FOR A REASONABLE PERIOD OF ANY PERSON USING THESE FACILITIES WHO IS SUSPECTED OF COMMITTING A THEFT OF LIBRARY MATERIAL.

C. 2A:43A-1 Definitions; notice.

5. a. As used in this section:

(1) "Library material" means any material, regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility;

(2) "Library facility" means any public library, any library of an educational, historical, or charitable institution, organization or society, or any museum.

b. Prior to bringing a civil action against any person committing an offense that would constitute theft of library material, the library facility shall notify the person in writing that if he has not reimbursed the library facility for the fair market value of the library material plus any costs, including attorney's fees, and damages within 15 days of the notice, that a civil action may be brought. Thereafter, if a civil action is brought by the library facility, the library may recover the value of the library material, costs and damages, including attorney's fees.

6. This act shall take effect immediately.

Approved November 26, 1985.

CHAPTER 374

AN ACT concerning mayors and local governing bodies in certain instances, amending and supplementing P. L. 1950, c. 210 and amending N. J. S. 40A :9-165.

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

1. Section 3-2 of P. L. 1950, c. 210 (C. 40:69A-32) is amended to read as follows:

C. 40:69A-32 Mayor-council plan.

3-2. a. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

b. For the purpose of the construction of all other applicable statutes, unless the explicit terms and context of the statute require a contrary construction, any administrative or executive functions assigned by general law to the governing body shall be exercised by the mayor, and any legislative and investigative functions assigned by general law to the governing body shall be exercised by the council. Those functions shall be exercised pursuant to the procedures set forth in this plan of government, unless other procedures are required by the specific terms of the general law.

2. Section 3-6 of P. L. 1950, c. 210 (C. 40:69A-36) is amended to read as follows:

C. 40:69A-36 Legislative power.

3-6. The legislative power of the municipality shall be exercised by the municipal council, subject to the procedures set forth in this plan of government. Legislative powers shall be exercised by ordinance, except for the exercise of those powers that, under this plan of government or general law, do not require action by the mayor as a condition of approval for the exercise thereof, and may, therefore, be exercised by resolution, including, but not limited to:

- a. The override of a veto of the mayor;
- b. The exercise of advice and consent to actions of the mayor;
- c. The conduct of a legislative inquiry or investigation;
- d. The expression of disapproval of the removal by the mayor of officers or employees;
- e. The removal of any municipal officer for cause;
- f. The adoption of rules for the council;
- g. The establishment of times and places for council meetings;
- h. The establishment of the council as a committee of the whole and the delegation of any number of its members as an ad hoc committee;
- i. The declaration of emergencies respecting the passage of ordinances;
- j. The election, appointment, setting of salaries and removal of officers and employees of the council, subject to any pertinent

civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget;

k. Designation of official newspapers;

l. Approval of contracts presented by the mayor;

m. Actions specified as resolutions in the "Local Budget Law" (N. J. S. 40A:4-1 et seq.) and the "Local Fiscal Affairs Law" (N. J. S. 40A:5-1 et seq.); and

n. The expression of council policies or opinions which require no formal action by the mayor.

3. Section 3-7 of P. L. 1950, c. 210 (C. 40:69A-37) is amended to read as follows:

C. 40:69A-37 Investigative, removal powers.

3-7. The council, in addition to such other powers and duties as may be conferred upon it by this charter or otherwise by general law, may:

(a) Require any municipal officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and otherwise to investigate the conduct of any department, office or agency of the municipal government;

(b) Remove, by at least two-thirds vote of the whole number of the council, any municipal officer, other than the mayor or a member of council, for cause, upon notice and an opportunity to be heard.

4. Section 3-9 of P. L. 1950, c. 210 (C. 40:69A-39) is amended to read as follows:

C. 40:69A-39 Executive power.

3-9. The executive power of the municipality shall be exercised by the mayor, subject to the procedures set forth in this plan of government.

5. Section 3-10 of P. L. 1950, c. 210 (C. 40:69A-40) is amended to read as follows:

C. 40:69A-40 Mayoral duties.

3-10. The mayor shall:

a. Enforce the charter and ordinances of the municipality and all general laws applicable thereto;

b. Report annually to the council and to the public on the state of the municipality, and the work of the previous year; he shall also recommend to the council whatever action or programs he deems necessary for the improvement of the municipality and the

welfare of its residents. He may from time to time recommend any action or programs he deems necessary or desirable for the municipality to undertake;

c. Supervise, direct and control all departments of the municipal government and shall require each department to make an annual and such other reports on its work as he may deem desirable;

d. Require such reports and examine such accounts, records and operations of any board, commission or other agency of municipal government, as he deems necessary;

e. Prepare and submit to the council for its consideration and adoption an annual operating budget and a capital budget, establish the schedules and procedures to be followed by all municipal departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;

f. Supervise the care and custody of all municipal property, institutions and agencies, and make recommendations concerning the nature and location of municipal improvements and execute improvements determined by the governing body;

g. Sign all contracts, bonds or other instruments requiring the consent of the municipality;

h. Review, analyze and forecast trends of municipal services and finances and programs of all boards, commissions, agencies and other municipal bodies, and report and recommend thereon to the council;

i. Supervise the development, installation and maintenance of centralized budgeting, personnel and purchasing procedures as may be authorized by ordinance;

j. Negotiate contracts for the municipality, subject to council approval;

k. Assure that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, franchise or other contract are faithfully kept and performed;

l. Serve as an ex officio, nonvoting member of all appointive bodies in municipal government of which he is not an official voting member.

6. Section 3-13 of P. L. 1950, c. 210 (C. 40:69A-43) is amended to read as follows:

C. 40:69A-43 Municipal departments; boards of alcoholic beverage control.

3-13. (a) The municipality shall have a department of administration and such other departments, not less than two and not exceeding nine in number, as council may establish by ordinance.

All of the administrative functions, powers and duties of the municipality, other than those vested in the offices of the municipal clerk and the municipal tax assessor, shall be allocated and assigned among and within such departments.

The offices of the municipal clerk and the municipal tax assessor shall be subject to such general administrative procedures and requirements as are departments of the municipal government, including, but not limited to, the preparation and submission of an annual budget and of such periodic budget reports as are generally required of departments, and such accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services as are generally required of departments.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. The mayor shall, with the advice and consent of the council, appoint the municipal assessor and all other municipal officers not assigned within municipal departments, subject to the terms of any general law providing for these offices, unless a different appointment procedure is clearly required by this plan of government or by general law.

(c) The mayor may in his discretion remove any department head and, subject to any general provisions of law concerning term of office or tenure, any other municipal executive officer who is not a subordinate departmental officer or employee, after notice and an opportunity to be heard. Prior to removal the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the 20th day after the filing of such notice unless the council shall prior thereto have adopted a resolution by a two-thirds vote of the whole number of the council, disapproving the removal.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees, subject to the provisions of the Revised Statutes, Title 11, Civil Service, where that Title is effective in the municipality, or other general law.

(e) Notwithstanding the foregoing provisions of this section, in any city of the first class, there shall be, and in any municipality having a population of 15,000 or more, there may be, a board of

alcoholic beverage control which shall exercise the powers conferred upon municipal boards of alcoholic beverage control under Title 33 of the Revised Statutes. Such boards shall be comprised of three members, no more than two of whom shall be of the same political party, who shall be appointed by the mayor, with the advice and consent of the council, each to serve for a term of three years, provided that of those first appointed, one shall be appointed to serve for a term of one year, one for two years, and one for three years. Any vacancy in such office shall be filled in the same manner as the original appointment, for the balance of the unexpired term. Except in cities of the first class the members of such board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duties; in cities of the first class, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11 of the Revised Statutes, Civil Service, and no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the general power of the municipal council under this act to establish, alter and abolish offices, boards and commissions in any municipality other than a city of the first class.

(f) Whenever the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council, unless the specific terms of that general law clearly require a different appointment procedure or appointment by resolution, in which case the appointment shall be by the council.

7. Section 3-18 of P. L. 1950, c. 210 (C. 40:69A-48) is amended to read as follows:

C. 40:69A-48 Control function.

3-18. Provision shall be made by ordinance for the exercise of a control function, in the management of the finances of the municipality, by some officer other than the business administrator. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit of all claims and demands against the municipality prior to payment, and for the control of all payments out of any public funds by individual warrant for each payment to the official having custody thereof.

C. 40:69A-37.1 Mayoral control of administration.

8. (New section) In any municipality adopting the mayor-council plan of government, the municipal council shall deal with employees of the department of administration and other administrative departments solely through the mayor or his designee. All contact with the employees, and all actions and communications concerning the administration of the government and the provision of municipal services shall be through the mayor or his designee, except as otherwise provided by law.

Nothing in this section shall be construed to prohibit the council's inquiry into any act or problem of the administration of the municipality. Any council member may, at any time, require a report on any aspect of the government of the municipality by making a written request to the mayor. The council may, by a majority vote of the whole number of its members, require the mayor or his designee to appear before the council sitting as a committee of the whole, and to bring before the council those records and reports, and officials and employees of the municipality as the council may determine necessary to ensure clarification of the matter under study. The council may further, by a majority of the whole number of its members, designate any number of its members as an ad hoc committee to consult with the mayor or his designee to study any matter and to report to the council thereon. It is the intent of the mayor-council plan of government to confer on the council general legislative powers, and such investigative powers as are germane to the exercise of its legislative powers, but to retain for the mayor full control over the municipal administration and over the administration of municipal services.

C. 40:69A-43a Administrative department salaries.

9. (New section) The mayor shall, subject to any pertinent civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget, fix the amount of salary, wages or other compensation to be paid to employees of the administrative departments of the municipal government, except that the salary, wages or other compensation paid the director of each department shall be fixed by the council pursuant to subsection (c) of section 17-31 of P. L. 1950, c. 210 (C. 40:69A-180), and except that salaries of officers which are required by law to be fixed by ordinance shall be fixed by ordinance.

10. N. J. S. 40A:9-165 is amended to read as follows:

Salary ordinances.

40A :9-165. The governing body of a municipality, by ordinance, unless otherwise provided by law, shall fix and determine the salaries, wages or compensation to be paid to the officers and employees of the municipality, including the members of the governing body and the mayor or other chief executive, who by law are entitled to salaries, wages, or compensation.

Salaries, wages or compensation fixed and determined by ordinance may, from time to time, be increased, decreased or altered by ordinance. No such ordinance shall reduce the salary of, or deny without good cause an increase in salary given to all other municipal officers and employees to, any tax assessor, tax collector or municipal clerk during the term for which he shall have been appointed. Except with respect to an ordinance or a portion thereof fixing salaries, wages or compensation of elective officials or any managerial, executive or confidential employee as defined in section 3 of the "New Jersey Employer-Employee Relations Act," P. L. 1941, c. 100 (C. 34:13A-3), as amended, the ordinance shall take effect as provided therein. In municipalities wherein the provisions of Title 11 (Civil Service) of the Revised Statutes are in operation, this section shall be subject thereto.

Where any such ordinance shall provide for increases in salaries, wages or compensation of elective officials or any managerial, executive or confidential employee, the ordinance or that portion thereof which provides an increase for such elective or appointive officials shall become operative in 20 days after the publication thereof, after final passage, unless within said 20 days, a petition signed by voters of such municipality, equal in number to at least 5% of the registered voters of the municipality, protesting against the passage of such ordinance, be presented to the governing body, in which case such ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted at an election by a majority of the voters voting on said proposition. The question shall be submitted at the next general election, occurring not less than 40 days from the date of the certification of the petition. The submission of the question to the voters shall be governed by the provisions of Title 19 (Elections) of the Revised Statutes, as in the case of public questions to be voted upon in a single municipality.

11. This act shall take effect immediately.

Approved November 26, 1985.

CHAPTER 375

AN ACT to amend the title of "An act concerning snowmobiles and providing for their registration and regulating the operation thereof," approved December 14, 1973 (P. L. 1973, c. 307) so that the same shall read "An act concerning snowmobiles and all-terrain vehicles and providing for their registration and regulating the operation thereof," and to amend and supplement the body of said act.

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

Title amended.

1. The title of P. L. 1973, c. 307 is amended to read as follows: An act concerning snowmobiles and all-terrain vehicles and providing for their registration and regulating the operation thereof.

2. 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 400 cubic centimeters, but shall not include golf carts.

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

C. 39:3C-2 Jurisdiction divided.

2. For the purpose of carrying out the provisions of this act:

a. The director shall have the power, duty and authority to administer and enforce all statutes, rules and regulations, except as otherwise provided by statute, relating to the operation and use of snowmobiles and all-terrain vehicles on or across a public highway or on public lands or waters, including but not limited to the following:

(1) Registration, identification, numbering and classification

(2) Equipment

(3) Standards of safety

(4) Educational programs

(5) Promulgate rules and regulations to effectuate the purposes of this act.

b. The Commissioner of Environmental Protection shall have the power, duty and authority to administer and enforce all statutes, rules and regulations, except as otherwise provided by statute, relating to snowmobiles and all-terrain vehicles on the public lands and waters under the jurisdiction of the Department of Environmental Protection.

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

C. 39:3C-3 Registration 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 registration, \$5.00 annually;

b. For each individual nonresident registration, \$7.00 annually;

c. For replacement of 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 follow-

ing year, except that the director may suspend or revoke such registration for any violations of this act or of the rules promulgated hereunder.

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

C. 39:3C-4 Permanent registration number.

4. Once a registration number is assigned, it shall remain with the registered snowmobile or all-terrain vehicle until the snowmobile or all-terrain vehicle is destroyed, abandoned or permanently removed from the State, or until changed or terminated by the director.

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

C. 39:3C-5 Registration certificate; transfer of ownership.

5. Such registration shall be issued by the director or by agents as designated by him when a snowmobile or all-terrain vehicle is operated across a public highway or on public lands or waters and shall be in such form as the director shall prescribe. The registration certificate shall be subject to inspection by any law enforcement officer on demand and shall be on the vehicle at all times when in operation.

The registration number assigned shall be displayed on each side of the vehicle in such form, location and manner as prescribed by the director.

Whenever ownership is transferred or the use of a snowmobile or all-terrain vehicle for which a registration certificate has already been issued is discontinued, the old registration shall be properly signed and executed by the owner, showing that the ownership has been transferred or its use discontinued, and returned to the director within 10 days of said event. If there is a change of ownership for which a registration certificate has been previously issued, the new owner shall apply for a new registration certificate and set forth the original number in the application. He shall pay the regular fee for the particular snowmobile or all-terrain vehicle involved. The owner of any registration certificate issued under this section may obtain a duplicate from the division upon application and payment of the fee prescribed.

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

C. 39:3C-6 Private property, government exemptions.

6. a. No registration shall be required for a snowmobile or all-terrain vehicle operated on private property.

b. No registration fee shall be charged for a snowmobile or all-terrain vehicle owned by the federal government, the State, county or municipal government or subdivision thereof.

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

C. 39:3C-7 Reciprocity.

7. The registration provisions of this act shall not apply to nonresident owners who have complied with the registration and licensing laws of the state or country of residence, provided that the snowmobile or all-terrain vehicle is appropriately identified in accordance with the laws of the state of residence and conspicuously displays the registration number issued by the state or country of residence. Nothing in this section shall be construed to authorize the operation of any snowmobile or all-terrain vehicle contrary to the provisions of this act.

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

C. 39:3C-8 Display of registration number.

8. The registration number assigned to a snowmobile or all-terrain vehicle shall be displayed on the vehicle at all times in such manner as the director may, by regulation, prescribe. No number other than the number assigned by the director, or the identification number of the registration in another state, shall be painted, attached or otherwise displayed on either side of the cowling, except that racing numbers on a snowmobile or all-terrain vehicle being operated in prearranged organized special events may be temporarily displayed for the duration of the race.

10. 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. 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.

11. Section 11 of P. L. 1973, c. 307 (C. 39:3C-11) is amended to read as follows:

C. 39:3C-11 Transfer of ownership.

Whenever the ownership of a snowmobile or all-terrain vehicle is transferred or the use for which a registration certificate has already been issued is discontinued, the old registration certificate shall be properly signed and executed by the owner, showing that the ownership of the snowmobile or all-terrain vehicle has been transferred or its use discontinued, and returned to the division within 10 days after transfer or discontinuance. If there is a change of ownership for which a registration certificate has previously been issued, the new owner shall apply for a new certificate. He shall set forth the original number issued in the application accompanied by the old registration properly signed by the previous owner and with the required fee submitted to the division, for registration.

12. Section 12 of P. L. 1973, c. 307 (C. 39:3C-12) is amended to read as follows:

C. 39:3C-12 Notification of destruction, theft.

12. It shall be the duty of every owner of a snowmobile or all-terrain vehicle registered pursuant to this act to notify the division, in writing, of the destruction, theft or permanent removal of such from the State, within 10 days thereafter; and in the event of the destruction or theft of such, shall surrender the certificate of registration with such notice.

13. Section 13 of P. L. 1973, c. 307 (C. 39:3C-13) is amended to read as follows:

C. 39:3C-13 Permit for park use.

13. No political subdivision of the State shall require additional licensing or registration of snowmobiles or all-terrain vehicles which are covered by the provisions of this act.

Nothing herein shall however prohibit the requirement of a permit by State or local parks for use of snowmobiles on park lands

or in any way affect the authority of the Department of Environmental Protection, the commissioner thereof, or those responsible for the operation of a park from adopting rules and regulations concerning the use of snowmobiles and all-terrain vehicles.

14. 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.

15. 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.

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

C. 39:3C-16 14 minimum age.

16. No person under the age of 14 years shall operate or be permitted to operate any snowmobile or all-terrain vehicle on public lands or waters or across a public highway.

17. Section 17 of P. L. 1973, c. 307 (C. 39:3C-17) is amended to read as follows:

C. 39:3C-17 Operational limitations.

17. a. No person shall operate a snowmobile or all-terrain vehicle upon limited access highways or within the right-of-way limits thereof.

b. No person shall operate a snowmobile or all-terrain vehicle upon the main traveled portion or the plowed snowbanks of any public street or highway or within the right-of-way limits thereof except as follows:

(1) Properly registered snowmobiles or all-terrain vehicles may cross, as directly as possible, public streets or highways, except limited access highways, provided that such crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction on such public street or highway. Prior to making any such crossing, the operator shall bring the snowmobile or all-terrain vehicle to a complete stop. It shall be the responsibility of the operator of a snowmobile or all-terrain vehicle to yield the right-of-way to all vehicular traffic upon any public street or highway before crossing same.

(2) Whenever it is impracticable to gain immediate access to an area adjacent to a public highway where a snowmobile or all-terrain vehicle is to be operated, it may be operated adjacent and parallel to such public highway for the purpose of gaining access to the area of operation. This subsection shall apply to the operation of a snowmobile or all-terrain vehicle from the point where it is unloaded from a motorized conveyance to the area where it is to be operated, or from the area where operated to a motorized conveyance, when such loading or unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on said public highway. Such loading or unloading must be accomplished with due regard to safety, at the nearest possible point to the area of operation.

18. Section 18 of P. L. 1973, c. 307 (C. 39:3C-18) is amended to read as follows:

C. 39:3C-18 Operation on private property.

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 or 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.

19. Section 19 of P. L. 1973, c. 307 (C. 39:3C-19) is amended to read as follows:

C. 39:3C-19 Unlawful activities.

19. It shall be unlawful for:

a. Any person to operate or ride as a passenger on any snowmobile or all-terrain vehicle without wearing a protective helmet approved by the director. Any such helmet shall be of a type acceptable for use in conjunction with motorcycles as provided in sections 6 to 9 of P. L. 1967, c. 237 (C. 39:3-76.7 through 39:3-76.10).

b. Any person to operate a snowmobile or all-terrain vehicle that is not equipped with working headlights, taillights, brakes and proper mufflers as supplied by the motor manufacturer for the particular model, without modifications, nor shall any person operate any snowmobile or all-terrain vehicle in such a manner as to cause a harsh, objectionable or unreasonable noise.

c. Any person to operate a snowmobile or all-terrain vehicle at any time and in any manner intended or reasonably to be expected to harass, drive or pursue any wildlife.

d. Any person to operate any snowmobile or all-terrain vehicle during the hours from $\frac{1}{2}$ hour before sunset to $\frac{1}{2}$ hour after sunrise without having lighted headlights and lighted taillights.

e. Any person to operate any snowmobile or all-terrain vehicle on the land of another without first securing the permission of the landowner or his duly authorized representative.

f. Any person to operate a snowmobile or all-terrain vehicle upon railroad or right-of-way of an operating railroad, except railroad personnel in the performance of their duties.

g. Any person to violate any provision of this act or any rule or regulation adopted pursuant to this act.

20. Section 20 of P. L. 1973, c. 307 (C. 39:3C-20) is amended to read as follows:

C. 39:3C-20 Mandatory insurance.

20. a. No snowmobile or all-terrain vehicle shall be operated or permitted to be operated unless the owner thereof has obtained a policy of insurance, in such language and form as shall be determined by the Commissioner of the Department of Insurance, from

an insurance carrier authorized to do business in this State, the terms of which policy shall indemnify an amount or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and an amount or limit, subject to such limit for any one person so injured, or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to or death of, more than one person, in any one accident; and an amount or limit of \$5,000.00, exclusive of interest and costs, for damage to property in any one accident, for damages arising out of the negligent operation of said snowmobile or all-terrain vehicle. In lieu of such insurance coverage as hereinabove provided, the director, in his discretion and upon application of the State or a municipality having registered in its name one or more snowmobiles or all-terrain vehicles, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he is satisfied of financial ability to respond to judgments obtained against it or them, arising out of the ownership, use or operation of the snowmobiles or all-terrain vehicles.

b. Proof of insurance as hereinabove required shall be produced and displayed by the owner or operator of such snowmobile or all-terrain vehicle upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of it by the owner or operator.

c. An owner of a snowmobile or all-terrain vehicle who shall operate or permit the same to be operated without having in effect the required liability insurance coverage, and any other person who shall operate any snowmobile or all-terrain vehicle with the knowledge that the owner thereof does not have in effect such insurance coverage shall be guilty of a violation of this act and be subject to a fine of not less than \$25.00 nor more than \$100.00.

d. The director is hereby authorized to promulgate reasonable regulations to provide effective administration and enforcement of the provisions of this section in accordance with the purposes thereof.

21. Section 21 of P. L. 1973, c. 307 (C. 39:3C-21) is amended to read as follows:

C. 39:3C-21 Post-accident procedures.

21. The operator of any snowmobile or all-terrain vehicle involved in an accident resulting in injuries or death of any person

or property damage shall comply with the procedures in R. S. 39:4-129 and R. S. 39:4-130.

22. Section 22 of P. L. 1973, c. 307 (C. 39:3C-22) is amended to read as follows:

C. 39:3C-22 Special events.

22. The director may authorize the holding of organized special events. He shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to division permit and designating the equipment and facilities necessary for safe operation of snowmobiles and all-terrain vehicles and for the safety of operators, participants, and observers in such special events. Whenever such special event requiring permit of the division is proposed to be held in the State of New Jersey, the person in charge thereof shall, at least 20 days prior thereto, file an application with the director to hold such special event. The application shall set forth the date of and location where it is proposed to hold such rally, race, exhibition, or organized event, and such other information as the director may require, and it shall not be conducted without written authorization of the director and, if the event is desired to be held upon public lands or waters, a written authorization of the commissioner. Copies of such regulations shall be furnished by the division to any person making an application therefor.

Any person sponsoring the event who shall violate any regulation adopted pursuant to this section shall for every such violation be subject to a fine not to exceed \$250.00.

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

C. 39:3C-23 Limited exemption.

23. Snowmobiles and all-terrain vehicles operated at special events shall be exempt from the provisions of this act concerning registration and lights during the time of such operation, including all preraise practice at the location of said meet.

24. Section 24 of P. L. 1973, c. 307 (C. 39:3C-24) is amended to read as follows:

C. 39:3C-24 Mandatory equipment.

24. All snowmobiles and all-terrain vehicles operating within the State of New Jersey shall be equipped with:

a. Headlights. At least one white or amber headlamp having a minimum candlepower of sufficient intensity to reveal persons and

vehicles at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions.

b. Taillights. At least one red taillamp having a minimum candle-power of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

c. Brakes. A brake system in good mechanical condition.

d. Reflector material. Reflector material of a minimum area of 16 square inches mounted on each side of the cowling. Registration numbers or other decorative material may be included in computing the required 16-square-inch area.

e. Mufflers. An adequate muffler system in good working condition.

25. Section 25 of P. L. 1973, c. 307 (C. 39:3C-25) is amended to read as follows:

C. 39:3C-25 Inspection and testing.

25. Inspection and testing. The director may adopt rules and regulations with respect to the inspection of snowmobiles and all-terrain vehicles and the testing of mufflers for those vehicles.

26. 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. 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.

27. 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.

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.

28. Section 30 of P. L. 1973, c. 307 (C. 39:3C-30) is amended to read as follows:

C. 39:3C-30 Chapter 4 provisions applicable.

30. Owners and operators of snowmobiles and all-terrain vehicles shall, when operating such across a public highway or on public lands or waters, comply with the following provisions of chapter 4 of Title 39 of the Revised Statutes: R. S. 39:4-48 through R. S. 39:4-51; R. S. 39:4-64; R. S. 39:4-72; R. S. 39:4-80; R. S. 39:4-81; R. S. 39:4-92; R. S. 39:4-96 through R. S. 39:4-98; R. S. 39:4-99; R. S. 39:4-100; R. S. 39:4-104; R. S. 39:4-129 through R. S. 39:4-134; R. S. 39:4-203. The failure to comply with any of these provisions shall be a violation of this act and the penalty for such a violation shall be as provided in section 28 of P. L. 1973, c. 307 (C. 39:3C-28) rather than the penalty provided in the sections cited above.

C. 39:3C-30.1 Golf course exemption.

29. (New section) The provisions of this 1985 amendatory and supplementary act insofar as they pertain to all-terrain vehicles shall not be applicable to their operation and use on golf courses in this State.

30. This act shall take effect on the 180th day after enactment.

Approved November 26, 1985.

CHAPTER 376

AN ACT concerning the possession of weapons by certain persons, amending N. J. S. 2C:39-6 and P. L. 1970, c. 211.

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

1. N. J. S. 2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. Exemptions. 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;

(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 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, or any special policeman authorized to carry a revolver or other similar weapons while off duty within the municipality where he is employed, as provided in N. J. S. 40A:14-146, or a special policeman or airport security officer appointed by the governing body of any county or municipality, except as provided in this paragraph, 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) A full-time member of the marine patrol force or a special marine patrolman authorized to carry the weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(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, 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.), while going to and from his place of duty and while in the course of performing official duties or while in the course of an official investigation within the State. 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.

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 freshwater 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 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 paragraph.

2. 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, while going to and from his place of duty and while in actual performance of his official duties within the State, possess all the powers of policemen and constables in criminal cases and offenses against the law, pursuant to any limitations as may be imposed by the governing body of the institution which appointed and commissioned the person.

3. This act shall take effect immediately.

Approved November 26, 1985.

CHAPTER 377

AN ACT concerning membership in the Police and Firemen's Retirement System of New Jersey 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) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator, or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to his transfer to a position within the department not otherwise covered by the retirement system. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, and highway patrol officer, sergeant highway patrol bureau, lieutenant highway patrol bureau, captain highway patrol bureau, assistant chief highway patrol bureau, chief highway patrol bureau in the Division of State Police and alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, and inspector recruit alcoholic beverage control, inspector alcoholic beverage control, senior inspector alcoholic beverage control, principal inspector alcoholic beverage control, supervising inspector alcoholic beverage control in the Division of State Police and conservation officer,

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assistant district conservation officer, district conservation officer, chief conservation officer and chief, bureau of law enforcement in the Division of Fish, Game, and Wildlife, ranger and chief ranger in the Bureau of Parks, field section fire warden, chief, Bureau of Forest Fire Management, State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire), supervising forest fire warden, division forest fire warden, assistant division forest fire warden, and section forest fire warden in the Bureau of Forest Fire Management, Department of Environmental Protection, and marine police officer, senior marine police officer, principal marine police officer in the Division of State Police, and marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, and State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, investigator, senior investigator, principal investigator, assistant chief investigator, chief investigator and Director of Custody Operations I, II, III in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator, supervisor of electronics and investigations, and county investigator in the offices of the county prosecutors, county sheriff, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the offices of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, and supervising juvenile officer, chief investigator, assistant chief investigator, senior investigator and investigator in a county welfare

agency in a county of the first class, if the county adopts an ordinance or resolution, as appropriate, pursuant to subsection a. of section 2 of P. L. 1985, c. 221 (C. 43:16A-62.3), and police officer capitol police, senior police officer capitol police in the Division of State Police and patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14-21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(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 either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any 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.

2. (New section) a. Any officer eligible to become a member pursuant to the amendatory provisions of this act who is enrolled in the Public Employees' Retirement System (P. L. 1954, c. 84; C. 43:15A-1 et seq.) shall be permitted to transfer membership from the aforesaid system to the Police and Firemen's Retirement System of New Jersey in accordance with the provisions of P. L. 1973,

c. 156 (C. 43:16A-62 et seq.) and upon a lump sum payment into the Police and Firemen's Retirement System annuity savings fund in the amount of the difference between the contribution which was paid as a member of the Public Employees' Retirement System and the contribution that would have been required if he had been a member of the Police and Firemen's Retirement System since the date of last enrolling in the Public Employees' Retirement System. In addition, the employee shall be liable for the amount of the difference between (1) the total contribution paid by the employer of the employee to the Public Employees' Retirement System with respect to any service credit transferred therefrom to the Police and Firemen's Retirement System under this subsection, and (2) the contribution which the employer would have been required to pay to the Police and Firemen's Retirement System with respect to that service credit if the employee had been enrolled in the Police and Firemen's Retirement System during the entire period with respect to which he accumulated that credit; this payment may be made in regular monthly installments or in a lump sum, as the employee may elect, and pursuant to rules and regulations as may be promulgated by the Division of Pensions.

Any such employee will likewise be permitted to continue his membership in the Public Employees' Retirement System by waiving all rights and benefits which would otherwise be provided by the Police and Firemen's Retirement System. A waiver to remain in the Public Employees' Retirement System or to transfer to the Police and Firemen's Retirement System shall be accomplished by filing forms satisfactory to the Division of Pensions with the division within 90 days after the effective date of this 1985 amendatory and supplementary act. In the absence of filing a timely waiver and, if appropriate, making payment to the Division of Pensions, an eligible officer's or employee's pension status shall remain unchanged and his membership shall not be transferred to the Police and Firemen's Retirement System.

Whenever in P. L. 1973, c. 156 a period of time is set which is to be calculated from the effective date of that act, the time shall be calculated from the effective date of this amendatory and supplementary act for the purposes hereof.

b. Each new officer who begins employment following the effective date of this act shall be required to enroll in the Police and Firemen's Retirement System of New Jersey as a condition of employment, provided he is otherwise eligible for membership by

meeting appointment, age, and health requirements prescribed for all members. As of the effective date of this act, eligibility for membership of those new officers in the Public Employees' Retirement System shall be terminated and the requirements of this subsection shall be deemed satisfied by enrollment of those employees in the Police and Firemen's Retirement System.

3. This act shall take effect immediately.

Approved November 26, 1985.

CHAPTER 378

AN ACT concerning unemployment compensation and amending
R. S. 43:21-19.

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 section 43:21-7 of this Title 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) "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.

(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 section 43:21-6 of this Title 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 section 43:21-4 of this Title.

(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 and 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 section 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 policymaking 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 1954) in the employ of an American employer (other than the service which is deemed employment under the provisions of paragraph

43:21-19 (i) (2) or (5) or 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 any other 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 1954 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 to 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 valid certification of registration under the Migrant and Seasonal Agricultural Worker 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 for 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 purposes 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 an instrumentality of the United States exempt 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 (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 Organization 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 lbs. 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.

(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.

(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 commissions 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 on March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in paragraph 1-a of c. 322 of the laws of 1938, entitled "An act concerning investment companies, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'investment companies.'"

(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 (e) 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 benefits 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 services in employment in the base year.

(y) (1) "Educational institution" means any public or other non-profit 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 post-graduate 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.

2. This act shall take effect October 1, 1985.

Approved November 27, 1985.

CHAPTER 379

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated by P. L. 1985, c. 209, the following sum is appropriated from the General Fund for the following purpose:

STATE AID

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management—State Aid

04-8030 Local Government Services \$3,000,000

State Aid:

Special Assistance—North Bergen township (\$3,000,000)

Of the amount hereinabove appropriated, a sum not to exceed \$1.5 million shall be provided as a grant to North Bergen township to replace possible unrealized but anticipated tax collections for 1985 and for other purposes authorized by the Local Finance Board; and a sum not to exceed \$1.5 million shall be provided exclusively as a loan to North Bergen township, to be used by the township only for those purposes authorized by the Local Finance Board, and to be repaid without interest over a five-year period commencing three years from the effective date of this act, and in such installments as shall be specified by the Local Finance Board.

2. The Local Finance Board shall conduct a review of the municipality's capital requirements and report its findings to the Governor and the Legislature within 90 days of the effective date of this act. The report shall include a determination of the amount of any deficiency in the municipality's General Capital Fund, now estimated to be \$6 million, and a recommendation of the means whereby any deficiency may be eliminated, which may include recommendation for State appropriation or other participation by the State.

3. This act shall take effect immediately.

Approved December 6, 1985.

CHAPTER 380

AN ACT appropriating moneys from the "Water Supply Fund" for State projects, as recommended by the New Jersey State-wide Water Supply Plan.

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, the following sum of

money for State projects, to be constructed by the New Jersey Water Supply Authority, as recommended by the New Jersey Statewide Water Supply Plan:

Manasquan Reservoir Project \$72,000,000.00

2. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P. L. 1981, c. 261, and shall include administrative, financing, design and construction costs.

3. The New Jersey Water Supply Authority shall, in coordination with the Department of Environmental Protection and the Board of Public Utilities, develop a program to charge any water supply user which benefits from the project constructed by it pursuant to this act for the full cost of planning, acquiring, constructing and operating that project.

4. State projects shall be constructed by the New Jersey Water Supply Authority, and funds made available to the authority pursuant to this act 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 to the General Fund in accordance with the terms of a written loan agreement. The form of the loan agreement shall be specified by the State Treasurer. The authority shall set rates and charges for the water supplied from its facilities sufficient to make semiannual payments of principal and interest on loans from the "Water Supply Fund" according to a schedule agreed upon with the State Treasurer before loans are advanced.

5. Due to the severity of the water supply problems in Monmouth and northern Ocean counties, the design of the Manasquan Reservoir project shall be carried out as soon as practicable by the New Jersey Water Supply Authority to avoid future delays in project implementation. Consistent with the provisions of P. L. 1983, c. 355, a waiver of the repayment of funds for the design phase shall be granted by the Department of Environmental Protection to the authority, if the Manasquan Reservoir project is not constructed for reasons beyond the control of the authority, as certified by the Commissioner of the Department of Environmental Protection.

6. This act shall take effect immediately.

Approved December 16, 1985.

CHAPTER 381

AN ACT controlling smoking in government buildings and supplementing Title 26 of the Revised Statutes.

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

C. 26:3D-46 Findings, declarations.

1. The Legislature finds and declares that the resolution of the conflict between the right of the smoker to smoke and the right of the nonsmoker to breathe clean air involves a determination of when and where, rather than whether, a smoker may legally smoke. It is not the public policy of this State to deny anyone the right to smoke. However, the Legislature finds that in those government buildings affected by this act the right of the nonsmoker to breathe clean air should supersede the right of the smoker to smoke. In addition to the deleterious effects upon smokers, tobacco smoke is (1) at least an annoyance and a nuisance to a substantial percentage of the nonsmoking public, and (2) a substantial health hazard to a smaller segment of the nonsmoking public. The purpose of this act, therefore, is to protect the interest of nonsmokers in government buildings and allow smokers the right to smoke in designated areas in government buildings.

C. 26:3D-47 Definitions.

2. As used in this act:

a. "Government building" means a building or portion of a building owned or leased by a government entity, exclusive of school, college, university and professional training buildings and health care facilities. Facilities owned or leased by a government entity and used for the holding of sports events, such as football, baseball, basketball and horse racing, or providing ambulatory recreation, such as ice and roller skating, are excluded from this definition.

b. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

c. "Supervisor" means the person who ultimately controls, governs or directs the activities and conduct of employees.

C. 26:3D-48 Rules governing smoking.

3. a. (1) Except for areas occupied by the Legislature, its committees and personnel, the supervisor of each unit of government

located in a government building shall establish written rules governing smoking in the building or that portion of the building for which the supervisor is responsible, except where smoking is prohibited by municipal ordinance under authority of R. S. 40:48-1 and R. S. 40:48-2 or any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire or in subsection b. of this section. The rules shall contain a written policy and procedure to protect the health, welfare and comfort of employees from the detrimental effects of tobacco smoke, which policy shall include designated nonsmoking areas, but may include designated smoking areas. Nothing in this act shall prevent any rule, regulation or procedure, which is not contrary to the provisions of this act, from being established by an employer or negotiated as a term or condition of any agreement or contract of employment. Employees shall be provided with a copy of the written rules upon request.

(2) Where the supervisor provides as part of the written rules a method of discipline for public employees who smoke in violation of this act, no such written rules shall be adopted unless:

(a) The supervisor shall first give written notice to all employees under the supervisor's supervision of the proposed rules;

(b) The employee or the employee's duly elected representative shall first have the right to be heard concerning those proposed rules.

(3) No written rule shall be adopted until 30 days after the delivery of the written notice to the employees.

(4) Any written rule thereafter adopted may not provide for any disciplinary action involving suspension or termination for six months following the effective date of this act.

(5) The Senate and General Assembly separately shall adopt rules governing smoking in their respective chambers, committee rooms and other areas occupied by their personnel, and shall adopt joint rules governing smoking in those areas occupied by the committees and personnel of both Houses.

b. Smoking is prohibited in the following government buildings:

(1) A room, chamber, place of meeting or public assembly, while a public meeting held under the auspices of a governmental entity and to which the public is invited, solicited or legally entitled to attend is in progress.

(2) In offices open to the general public, including, but not limited to: tax offices, vital records offices, motor vehicle offices and unemployment insurance offices.

(3) Libraries, indoor theatres, museums, lecture or concert halls, gymnasiums, or other similar facilities open to the public, except that smoking may be permitted therein on special occasions by persons seated at tables provided for the purpose of consuming food or beverages served or provided on the premises, in areas adjacent to these facilities within the same building where the words "Smoking Permitted" are posted, and in such areas when in use for private functions or under specified private lease.

c. In restaurants in government buildings with an occupied capacity of 50 or more persons a nonsmoking area shall be designated and posted prohibiting smoking therein. The size and location of the nonsmoking area shall be determined by the person in charge in accordance with patron needs, provided the entire establishment is not designated "Smoking Permitted." Where feasible the section designated "Smoking Permitted" shall be one contiguous area.

C. 26:3D-49 Other laws superseded.

4. The provisions of this act shall supersede any other statute, municipal ordinance, and rule or regulation adopted pursuant to law concerning smoking in public places, except where smoking is prohibited by any statute or regulation adopted pursuant to statute or ordinance under authority of R. S. 40:48-1 and 40:48-2 or any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire.

C. 26:3D-50 Signs required.

5. All places affected by this act shall be identified by the signs posted by the supervisors thereof with letters at least one inch in height stating "Smoking Permitted" or "Smoking Prohibited" or designated by the appropriate "Smoking Permitted" or "Smoking Prohibited" international symbol. The letters or symbol shall contrast in color with the sign. The sign may also indicate that violators are subject to a fine and that a person who smokes in a non-smoking area may be denied the services of the governmental department, division or agency. Every sign required by this section shall be located so as to be clearly visible to the public and employees.

C. 26:3D-51 Violation; notice; penalty.

6. a. (1) Any municipal or county health official engaged in executing or enforcing this act may order any person smoking in

violation of this act to comply with the provisions of this act. Thereupon any member of the public who smokes in a government building in violation of this act is subject to a fine not to exceed \$25.00. The supervisor or any agent thereof shall in no event be responsible for executing or enforcing this act against any member of the public.

(2) The supervisor shall have the right to withhold the services of the supervisor's department, division or agency to any member of the public who smokes in any public area in which smoking is prohibited, provided that the supervisor shall first inform that person of this right. Services shall not be denied if the member of the public complies with the rules governing smoking after receiving this notice, and the supervisor shall so inform that person.

(3) Any person waiting for services in a government building who leaves the building to smoke shall, upon reentering the building, have the right to regain his position in the order of persons receiving those services.

b. (1) Where the Department of Health has reason to suspect that any supervisor is or may be in violation of the provisions of this act, the department shall first give written notice to the supervisor. That written notice shall contain a statement by the department of the alleged violation as well as the department's recommendations to the supervisor as to how the supervisor's building or part thereof could conform to the provisions of this act; these recommendations may be in the form of a series of alternative proposals for compliance.

(2) All written notices forwarded by the department pursuant to this act shall be sent by certified mail or registered mail, return receipt requested.

(3) Upon receipt of the written notice, the supervisor may request of the department conferences with the department to be held at the supervisor's place of business or such other place mutually agreed by the department and the supervisor, which conference shall be utilized to afford the supervisor full opportunity to avail himself of the information and expertise of the department in furtherance of the supervisor's obligation to effect compliance with the provisions of this act.

c. (1) Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the commissioner, the penalty

recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

(2) Any action instituted under the provisions of this act to effect compliance with section 3 of this act shall be in the name of the commissioner.

d. Every municipal court has jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the commissioner, or the local board of health, as the case may be, as plaintiff. However, an action by the commissioner to require a supervisor or his agent to comply with section 3 of this act shall only be instituted in the Superior Court of New Jersey. That process shall be in the nature of a complaint and summons. No suit shall be commenced by the commissioner prior to 90 days from the day the commissioner forwards the written notice provided in subsection b. of section 6 of this act.

C. 26:3D-52 Immunity.

7. No supervisor or any agent thereof who has established rules governing smoking pursuant to section 3 of this act shall be subject to any action in any court by any party either under this act or at common law, provided that the commissioner may bring an action against the supervisor or agent thereof for failure to meet the provisions of this act. This action by the commissioner shall be limited to a response to the failure of the supervisor or the supervisor's agent to comply with section 3 or section 5 of this act.

C. 26:3D-53 Consultation services.

8. Upon request, the department shall be required to provide consultation services to employers seeking to comply with the provisions of this act. These consultation services may be in the form of providing suggested written policies and/or written rules which the employer may implement, as well as staff consultation.

C. 26:3D-54 Report to joint committee.

9. The Judiciary Committee of the General Assembly and the Law, Public Safety and Defense Committee of the Senate, or their

respective successors, are constituted a joint committee for the purposes of monitoring and evaluating the effectiveness of the implementation of this act. The commissioner shall, 18 months from the effective date of this act, report to the joint committee an evaluation of the effectiveness of this act and the committee shall, upon receiving the report, issue, as it may deem necessary and proper, recommendations for administrative or legislative changes affecting the implementation of this act.

10. This act shall take effect on the first day of the ninth month after enactment except that section 9 shall take effect immediately.

Approved December 18, 1985.

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CHAPTER 382

AN ACT concerning certain pension options and supplementing P. L. 1954, c. 84 (C. 43:15A-1 et seq.) and chapter 66 of Title 18A of the New Jersey Statutes.

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

C. 43:15A-50a Public employee's election of lifetime pension.

1. Notwithstanding the provisions of P. L. 1954, c. 84 (C. 43:15A-1 et seq.) or any other law to the contrary, whenever a member of the Public Employees' Retirement System elects a retirement benefit which is payable for the life of the member only and terminating at his death, without refund of any kind to the spouse, the member shall be required, before electing that benefit, to sign a form stating that the member has elected that benefit, that the member understands that it is payable during the member's lifetime only and that no benefits will be payable to the member's spouse after death. The Division of Pensions, Department of the Treasury, shall notify the member's spouse if the member identifies the spouse on the form. Notification shall be by certified mail to the spouse's address as provided on the form by the member. If the member has not provided an address for the spouse on the form, the Division of Pensions, Department of the Treasury, shall send the notice, by certified mail, to the spouse at the member's address. The notice shall advise the spouse that the retirement benefit chosen by the member is payable

during the member's lifetime only and that no benefits, other than any applicable life insurance benefits, shall be payable to the beneficiary after the member's death.

C. 18A:66-47.1 Spouse's benefit elimination by teacher.

2. Notwithstanding the provisions of chapter 66 of Title 18A of the New Jersey Statutes or any other law to the contrary, whenever a member of the Teachers' Pension and Annuity Fund elects a retirement benefit which is payable for the life of the member only and terminating at his death, without refund of any kind to the spouse, the member shall be required, before electing that benefit, to sign a form stating that the member has elected that benefit, that the member understands that it is payable during the member's lifetime only and that no benefits will be payable to the member's spouse after death. The Division of Pensions, Department of the Treasury, shall notify the member's spouse if the member identifies the spouse on the form. Notification shall be by certified mail to the spouse's address as provided on the form by the member. If the member has not provided an address for the spouse on the form, the Division of Pensions, Department of the Treasury, shall send the notice, by certified mail, to the spouse at the member's address. The notice shall advise the spouse that the retirement benefit chosen by the member is payable during the member's lifetime only and that no benefits, other than any applicable life insurance benefits, shall be payable to the beneficiary after the member's death.

3. This act shall take effect on the first day of the fifth month after the date of enactment and shall apply to retirement applications received by the Division of Pensions, Department of the Treasury, after the effective date of this act.

Approved December 18, 1985.

CHAPTER 383

AN ACT to provide buildings and facilities in south Jersey for the processing and distribution of food in that area; creating the South Jersey Food Distribution Authority and defining its powers and duties; authorizing the issuance of bonds and notes of the authority, providing for the terms and security thereof; and making an appropriation.

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

C. 4:26-1 Short title.

1. This act shall be known and may be cited as the "South Jersey Food Distribution Authority Law."

C. 4:26-2 Findings, declarations.

2. The Legislature finds and declares that the southern area of this State is in need of the construction and development of a major food processing and distribution center; that in addition to the direct economic gains in jobs and services to the area, the center would stimulate the fishing industry in this State; that the service of the center as a wholesale outlet and processing center would benefit the extensive farming industry in South and Central Jersey; and that with the food demands of the southern region of this State rapidly increasing, the center would provide purveyors and processors of food the capability to meet those demands.

The Legislature further finds that the authority conferred under this act and the expenditure of public moneys provided for herein constitute valid public purposes.

C. 4:26-3 Definitions.

3. As used in this act:

a. "Authority" means the South Jersey Food Distribution Authority created by section 4 of this act.

b. "Bonds" means bonds issued by the authority pursuant to this act.

c. "Notes" means notes issued by the authority pursuant to this act.

d. "Center" means the food processing and distribution center authorized under section 6 of this act.

C. 4:26-4 South Jersey Food Distribution Authority.

4. a. There is established in but not of the Department of Community Affairs a public body corporate and politic, with corporate succession, to be known as the "South Jersey Food Distribution Authority." The authority is 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 are an essential governmental function of the State and the application of the revenue derived from the project to the purposes provided in this act are applied in support of government.

b. The authority shall consist of the Commissioner of Community Affairs, the State Treasurer, the Secretary of Agriculture, and the Commissioner of Commerce and Economic Development, who shall be members ex officio, and five members appointed by the Governor with the advice and consent of the Senate, for terms of four years, not more than three of whom shall be of the same political party, provided that of the members of the authority, other than the ex officio members, first appointed by the Governor one shall serve for a term of one year, one for two years, one for three years and two for four years, respectively. The members appointed by the Governor shall be residents of Burlington, Ocean, Camden, Gloucester, Salem, Atlantic, Cumberland or Cape May county and shall broadly represent the economic and agricultural interests of South Jersey. 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 the 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 these oaths shall be filed in the office of the Secretary of State.

d. The chairman, who shall be the chief executive officer of the authority, shall be appointed by the Governor from the members of the authority other than the 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 a majority of the entire authorized membership of the authority, which shall include at least two ex officio members, shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting of the members thereof by a vote of a majority of the members present (which shall include two ex officio members), unless in any case the bylaws of the authority shall require a

larger number. No vacancy in the membership of the authority shall impair the right of a quorum 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 their faithful performance of the duties of the member or treasurer, as the case may be, in such form and amount as may be prescribed by the Comptroller of the Treasury. The 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 these bonds in effect. All costs of the 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. No member, officer or employee of the authority shall have or acquire any interest, direct or indirect, in the center or in any contract or proposed contract for materials or services to be furnished to or used by the authority. Neither the holding of any office or employment in the government of any county or municipality or of the State nor the owning of any other property within the State nor being engaged in any business or enterprise involving the handling, storage and marketing of agricultural or horticultural products, meat, fish, foods or similar products and commodities shall be deemed a disqualification for membership in or employment by the authority, and members of the governing body of a municipality may be appointed and may serve as members of the authority.

h. 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 designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

i. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations out-

standing or that provision has been made for the payment or retirement of these debts or obligations. Upon the dissolution of the authority all property, funds and assets thereof shall be vested in the State.

j. 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 a meeting by the authority shall have effect until 15 days after the copy of the minutes is 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, the action shall be of no effect. The powers conferred in this subsection 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 shall limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to perform each covenant, agreement or contract 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.

C. 4:26-5 Powers of authority.

5. Except as otherwise limited by this act, the authority shall have power:

- a. To sue and be sued;
- b. To have an official seal and alter it at pleasure;
- c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;
- d. To maintain an office at a place within the State as it may determine;
- e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- f. To acquire, lease as lessee or lessor, rent, lease, hold, use and dispose of real or personal property for its purposes;
- g. To borrow money and to issue its negotiable bonds or notes and to secure them by a mortgage on its property or any part thereof and otherwise to provide for and secure the payment of them and to provide for the rights of the holders of the bonds or notes;

h. To make and enter into all contracts, leases, and agreements for the use or occupancy of the center or any part of it or which are necessary or incidental to the performance of its duties and the exercise of its powers under this act;

i. To make low interest loans to qualified persons to assist them in the development, construction, reconstruction and improvement of the center, upon terms and conditions as the authority may determine;

j. To guarantee and insure loans made by private financial institutions to qualified persons upon terms and conditions as the authority determines;

k. To make surveys, maps, plans for, and estimates of the cost of, the center;

l. To establish, acquire, construct, lease the right to construct, rehabilitate, repair, improve, own, operate, and maintain the center, and let, award and enter into construction contracts, purchase orders and other contracts with respect to the center as the authority shall determine;

m. To fix and revise from time to time and charge and collect rents, tolls, fees and charges for the use, occupancy or services of the center or any part thereof or for admission thereto, and for the grant of concessions therein and for things furnished or services rendered by the authority;

n. To establish and enforce rules and regulations for the use or operation of the center or the conduct of its activities, and provide for the policing and the security of the center;

o. To acquire in the name of the authority by purchase or otherwise, on terms and conditions and in a manner it deems proper, or, except with respect to the State, by the exercise of the power of eminent domain, any land and other property, including land under water, and riparian rights, which it may determine is reasonably necessary for the center or for the relocation or reconstruction of any highway by the authority and any rights, title and interest in the land and other property, including public lands, reservations, highways or parkways, owned by or in which the State or any county or municipality, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon abutting property to preserve

and protect the center. Whenever the authority has determined that it is necessary to take any real property for facility purposes by the exercise of the power of condemnation, as hereinafter provided, it shall prepare two copies of diagrams, maps or plans designating the general area in which the real property is to be acquired and file one copy thereof in its office and the other copy thereof in the office of the clerk of the municipality in which the real property is located. The authority is empowered to acquire and take real property by condemnation, in the manner provided by the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) and to that end, may invoke and exercise the power to condemn in the manner or mode of procedure prescribed in that act, except where the provisions of section 8 of this act provide otherwise; and except that, notwithstanding the foregoing or any other provision of this act, the authority shall not institute any proceeding to acquire or take, by condemnation, any real property within the designated area in the municipality referred to above in this section until after the date of filing in the office of the clerk of the municipality of a certified copy of: (1) a resolution of the authority stating the finding of the authority that it is necessary or convenient to acquire real property in the designated area for facility purposes, and (2) a resolution of the governing body of the municipality expressing its consent to the acquisition of real property in the designated area;

p. To provide through its employees, or by the grant of one or more concessions, or in part through its employees and in part by grant of one or more concessions, for the furnishing of services and things for the accommodation of persons admitted to or using the center or any part of it;

q. To acquire, construct, operate, maintain, improve and make capital contributions to others for transportation and other facilities, services and accommodations for the public using the center and to lease or otherwise contract for its operation;

r. Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in obligations, securities and other investments the authority deems prudent;

s. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political sub-

division thereof, or from any other source and to comply, subject to the provisions of this act, with the terms and conditions thereof;

t. Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available for those purposes, and to hold, cancel or resell the bonds or notes;

u. To appoint and employ an executive director and additional officers, who need not be members of the authority, and accountants, attorneys, financial advisors or experts and any other officers, agents and employees as it may require and determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11 (Civil Service) of the Revised Statutes;

v. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person;

w. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

x. To do anything necessary or convenient to carry out its purposes and exercise the powers granted in this act; and

y. To conduct a study to determine if the market facility is feasible and thereafter to conduct feasibility studies to identify an appropriate site therefor and thereafter to determine the location, type and character of the center or any part of it and all other matters in connection with all or any part of the center, which shall comply with the provisions of any applicable land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate, or any other political subdivision of the State;

z. (1) To make all purchases, contracts, or agreements where the cost or contract price exceeds the sum of \$7,500.00, which, except as otherwise provided in this subsection, shall be made, negotiated, or awarded only after public advertisement for bids therefor and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the authority, in its judgment, upon consideration of price and other factors. Any bid may be rejected when the authority determines that it is in the public interest to do so.

Any purchase, contract, or agreement where the cost or contract price is \$7,500.00 or less may be made, negotiated, or awarded by the authority without advertising and in any manner which the authority, in its judgment, deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition, by the acceptance of quotations or proposals or by the use of other suitable methods.

(2) Any purchase, contract, or agreement where the cost or contract price exceeds \$7,500.00 may be made, negotiated, or awarded by the authority without advertisement for bids when the subject matter is that described in paragraph (3) of this subsection or when the purchase, contract, or agreement is made, negotiated, or awarded under the circumstances described in paragraph (4) of this subsection. In any such instance, the authority may make, negotiate, or award the purchase, contract, or agreement in any manner which the authority deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition, by the acceptance of quotations or proposals or by the use of other suitable methods.

(3) Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to paragraph (2) of this subsection when the subject matter consists of:

(a) Services which are professional or technical in nature or services which are original and creative in character in a recognized field of artistic endeavor;

(b) Items which are perishable or subsistence supplies;

(c) Items which are specialized equipment or specialized machinery necessary to the conduct of authority business;

(d) Items or services supplied by a public utility subject to the jurisdiction of the Board of Public Utilities and tariffs and schedules of the charges made, charged or exacted by the public utility for those items or services are filed with the board;

(e) Items which are styled or seasonal wearing apparel; or

(f) The lease of such office space, office machinery, specialized equipment, buildings or real property as may be required for the conduct of authority business.

(4) Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to paragraph (2) of this subsection above when:

(a) Standardization of equipment and interchangeability of parts is in the public interest;

- (b) Only one source of supply or services is available;
- (c) The safety or protection of the authority's or other public property requires;
- (d) The exigency of the authority's service will not admit of advertisement;
- (e) More favorable terms can be obtained from a primary source of supply of an item or service;
- (f) Bid prices, after advertising, are not reasonable or have not been independently arrived at in open competition; but no negotiated purchase, contract, or agreement may be entered into under this subsection after the rejection of all bids received unless (i) notification of the intention to negotiate and reasonable opportunity to negotiate is given to each responsible bidder; (ii) the negotiated price is lower than the lowest rejected bid price of a responsible bidder; and (iii) the negotiated price is the lowest negotiated price offered by any responsible contractor;
- (g) The purchase is to be made from, or the contract is to be made with, the federal or any state government or agency or political subdivision thereof; or
- (h) Purchases made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P. L. 1959, c. 40 (C. 52:27B-56.1).

(5) In any case where the authority shall make, negotiate, or award a purchase, contract, or agreement without public advertisement pursuant to paragraph (2) of this subsection, the authority, shall, by resolution passed by the affirmative vote of a majority of its members, specify the subject matter or circumstances set forth in paragraphs (3) and (4) which permit the authority to take such action.

(6) Nothing herein shall prevent the authority from having any work done by its own employees.

(7) Commencing January 1, 1986, the Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each even-numbered year, adjust the threshold amount set forth in paragraph (1) of this subsection, or subsequent to 1986 the threshold amount resulting from any adjustment under this paragraph, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas, as reported by the United States Depart-

ment of Labor. The Governor shall, no later than June 1 of each even-numbered year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of each even-numbered year.

C. 4:26-6 Processing, distribution center authorized.

6. a. The authority is authorized to acquire by purchase, establish, develop, construct, operate, maintain, repair, reconstruct, restore, improve and otherwise effectuate a food processing and distribution center. The center shall be known as the South Jersey Food Processing and Distribution Center, shall be located in any one of the counties of Burlington, Ocean, Camden, Gloucester, Salem, Atlantic, Cumberland or Cape May and shall consist, as the authority may determine, of one or more buildings, structures, facilities, properties and appurtenances incidental and necessary to a center suitable for the processing and distribution of food on a regional basis and may include a wholesale produce market and storage, distribution and processing facilities for meat, fish, dairy and other grocery products, beverages and frozen foods, driveways, roads, approaches, parking areas, restaurants, transportation structures, systems and facilities, and equipment, furnishings, and all other structures and appurtenant facilities related to, necessary for, or complementary to the purposes of the center or any facility thereof. The authority may construct on the site other facilities consistent with the purposes for which the authority was established. As part of the center the authority is authorized to make capital contributions to others for transportation and other facilities, and accommodations for the public using the center. Any part of the site not occupied or to be occupied by facilities of the center may be leased by the authority for purposes determined by the authority to be consistent with or related to the purposes of the center. In addition, the authority may contract with any person for the development of any of the facilities to be a part of the center and may provide for the financing of the acquisition of any real property or of any construction.

b. Revenues, moneys or other funds, if any, derived from the operation or ownership of the center, 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 center and reserves therefor;

(2) Principal, sinking fund installments and redemption of and interest on any bonds or notes of the authority issued for the purposes of the center or for the purpose of refunding the same, including reserves therefor;

(3) The costs of any major or extraordinary repairs, renewals or replacements with respect to the center or incidental improvements to it not paid pursuant to paragraph (1) above, including reserves therefor;

(4) Payments required to be made pursuant to section 17b. of this act;

(5) Payments authorized to be made pursuant to section 17c. of this act;

(6) The balance remaining after application in accordance with the above shall be deposited in the General Fund.

C. 4:26-7 Relocation of highways, utility facilities; right of entry.

7. a. If the authority shall find it necessary in connection with the undertaking of the center to change the location of any portion of any public highway or road, it may contract with any government agency, public or private corporation which may have jurisdiction over the public highway or road to cause the public highway or road to be constructed at a location the authority deems most favorable. The cost of the reconstruction and any damage incurred in changing the location of the highway shall be ascertained and paid by the authority as a part of the cost of the center. Any public highway affected by the construction of the center may be vacated or relocated by the authority in the manner now provided by law for the location or relocation of public roads, and any damages awarded as a result shall be paid by the authority as part of the cost of the center. In all undertakings authorized by this subsection the authority shall consult and obtain the approval of the Department of Transportation.

b. In addition to the foregoing powers, the authority and its authorized agents and employees may enter upon any lands, waters and premises for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, all in accordance with due process of law, and the entry shall not be deemed a trespass nor shall an entry for that purpose be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damages resulting to the lands, waters and premises as a result of its activities.

c. The authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "public utility facilities," of any public utility as defined in R. S. 48:2-13, in, on, along, over or under the center. Whenever the authority shall determine that it is necessary that public utility facilities which now are, or hereafter may be, located in, on, along, over or under the center shall be relocated in the center, or should be removed therefrom, the public utility owning or operating the facilities shall relocate or remove the same in accordance with the order of the authority. The cost and expenses of the relocation or removal, including the cost of installing the facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the authority as a part of the cost of the center. In case of any relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in their former location or locations. In all undertakings authorized by this subsection the authority shall consult and obtain the approval of the Board of Public Utilities.

C. 4:26-8 Condemnation proceedings.

8. a. Upon the exercise of the power of eminent domain, the compensation to be paid thereunder shall be ascertained and paid in the manner provided in the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.), insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this act. The authority may join in separate subdivisions in one petition or complaint the descriptions of any number of tracts or parcels of land or property to be condemned, if each tract or parcel lies wholly in or has a substantial part of its value lying wholly within the same county, and the names of any number of owners and other parties who may have an interest therein and all the land or property included in the petition or complaint may be condemned in a single proceeding; but separate awards shall be made for each tract or parcel of land or property.

b. Upon the filing of the petition or complaint or at any time thereafter the authority may file with the clerk of the county in which the property is located and also with the clerk of the Superior Court a declaration of taking, signed by the authority, declaring that possession of one or more of the tracts or parcels of land or property described in the petition or complaint is being taken by and for the use of the authority. The declaration of taking shall be sufficient if it sets forth (1) a description of each tract or parcel of land or property to be taken sufficient for the identification of it, to which there shall be attached a plan or map thereof; (2) a statement of the estate or interest in the land or property being taken; (3) a statement of the sum of money estimated by the authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in the declaration; and (4) that, in compliance with the provisions of this act, the authority has established and is maintaining a trust fund as hereinafter provided.

c. Upon the filing of the declaration, the authority shall deposit with the clerk of the Superior Court the amount of the estimated compensation stated in the declaration. In addition to the deposits with the clerk of the Superior Court the authority shall maintain a special trust fund on deposit with a bank or trust company doing business in the State in an amount at least equal to twice the aggregate amount deposited with the clerk of the Superior Court, as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. The trust fund shall consist of cash or securities readily convertible into cash constituting legal investment for trust funds under the laws of the State. The trust fund shall be held solely to secure and may be applied to the payment of just compensation for the land or other property described in the declarations of taking. The authority shall be entitled to withdraw from the trust fund from time to time so much as may then be in excess of twice the aggregate of the amount deposited with the clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

d. Upon the filing of the declaration as aforesaid and depositing with the clerk of the Superior Court the amount of the estimated

compensation stated in the declaration, the authority, without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in the declaration and may forthwith enter into and take possession of the land or property, it being the intent of this provision that the proceedings for compensation or any other proceedings relating to the taking of the land or interest therein or other property shall not delay the taking of possession thereof and the use thereof by the authority for the purposes for which the authority is authorized by law to acquire or condemn the land or other property or interest in it.

e. The authority shall cause notice of the filing of the declaration and the making of the deposit to be served upon each party in interest named in the petition residing in the State, either personally or by leaving a copy at his residence, if known, and upon each party in interest residing out of the State, by mailing a copy to him at his residence, if known. If the residence of the party or the name of the party is unknown, notice shall be published at least once in a newspaper published or circulating in the counties in which the land is located. Service, mailing or publication shall be made within 10 days after filing the declaration. Upon the application of any party in interest and after notice to other parties in interest, including the authority, any judge of the Superior Court assigned to sit for that county may order that the money deposited with the clerk of the Superior Court or any part thereof be paid forthwith to the persons entitled thereto for or on account of the just compensation to be awarded in the proceeding, provided each person files with the clerk of the Superior Court a consent in writing that, if the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if any, for the return of the difference or any part of it and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person to whom the award is payable shall be entitled to recover from the authority the difference between the amount of the deposit and the amount of the award, with interest at the then legal rate from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the authority, unless the amount of the deposit or any part of it shall have there-

tofore been distributed, in which event the court, on petition of the authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the authority for the difference against the parties liable for the return. The authority shall cause notice of the date fixed for the hearing to be served upon each party residing in the State, either personally or by leaving a copy at his residence, if known, and upon each party residing out of the State, by mailing a copy to him at his residence, if known. If the residence of any party or the name of the party is unknown, notice shall be published at least once in a newspaper published or circulating in the counties in which the land is located. Service, mailing or publication shall be made at least 10 days before the date fixed for the hearing.

Whenever under the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) the amount of the award may be paid into court, payment may be made into the Superior Court and may be distributed according to law. The authority shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided.

C. 4:26-9 Issuance of bonds, notes authorized.

9. a. The authority is authorized from time to time to issue its bonds or notes in principal amounts which in the opinion of the authority shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds or notes issued by it, whether the bonds or notes or interest to be funded or refunded have or have not become due, the establishment or increase of the reserves to secure or to pay the bonds or notes or interest and all other costs or expenses of the authority incident to and necessary to carry out its corporate purposes and powers.

b. Except as may be otherwise expressly provided in this act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may issue types of bonds or notes as it may determine, including, but not limited to, bonds or notes as to which the principal and interest are payable (1) exclusively from the revenues and receipts of the part of the center financed with the proceeds of the bonds or notes; (2) exclusively from the revenues and receipts of certain designated parts of the center, whether or not the same are financed

in whole or in part from the proceeds of the bonds or notes; or (3) from its revenues and receipts generally. The bonds or notes may be additionally secured by a pledge of any grant, subsidy or contribution from the United States of America or any agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision thereof, or any person, or a pledge of any income or revenues, funds or moneys of the authority from any source whatsoever.

c. Whether or not the bonds and notes are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds and notes are negotiable instruments within the meaning of and for all the purposes of Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds or notes of the authority shall be authorized by a resolution of the authority and may be issued in one or more series and shall bear the date, mature at the time, bear interest at a rate of interest per annum, be in denominations, be in a form, either coupon or registered, carry any conversion or registration privileges, have rank or priority, be executed in any manner, be payable from any sources in any medium of payment at a place within or without the State, and be subject to the terms of redemption, with or without premium, as the resolution may provide.

e. Bonds or notes of the authority may be sold at public or private sale at a price and in a manner that the authority determines. Every bond shall mature and be paid not later than 40 years from the date of issue.

f. Bonds or notes may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by this act.

g. Bonds and notes of the authority issued under the provisions of this act shall not be a debt or liability of the State or its political subdivisions other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of a political subdivision or be or constitute a pledge of the faith and credit of the State or of a political subdivision but the bonds and notes, unless funded or refunded by bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available

for their payment as authorized in this act. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay its principal or interest only from revenues or funds of the authority and that neither the State nor its political subdivisions are obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or its political subdivisions is pledged to the payment of the principal or the interest on the bonds or notes.

h. All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act and nothing in this act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or its political subdivisions.

C. 4:26-10 Power to covenant.

10. In any resolution of the authority authorizing or relating to the issuance of any bonds or notes, the authority, in order to secure the payment of the bonds or notes and in addition to its other powers, shall have power by the resolutions which shall constitute covenants by the authority and contracts with the holders of the bonds or notes to:

a. Pledge all or any part of its rents, fees, tolls, revenues or receipts to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of any bonds or notes;

b. Pledge any lease or other agreement or the rents or revenues and their proceeds;

c. Mortgage all or any part of its property, real or personal, then owned or later acquired;

d. Covenant against pledging all or any part of its rents, fees, tolls, revenues or receipts or its leases or agreements or rents or other revenues from them or the proceeds of them, or against mortgaging all or any part of its real or personal property then owned or later acquired, or against permitting or suffering any lien on any of the foregoing;

e. Covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or its parts or any property of any kind;

f. Covenant as to any bonds and notes to be issued and their limitations, terms and conditions, and as to the custody, application, investment, and disposition of their proceeds;

g. Covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by it;

h. Covenant as to the payment of the principal of or interest on the bonds or notes, or any other obligations, as to the sources and methods of the payment, as to the rank or priority of the bonds, notes or obligations with respect to any lien or security or as to acceleration of the maturity of the bonds, notes or obligations;

i. Provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

j. Covenant against extending the time for the payment of bonds or notes or interest on them;

k. Covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the authority;

l. Covenant as to the rates of toll and other charges to be established and charged, the amount to be raised each year or other period of time by tolls or other revenues and as to the use and disposition to be made of them;

m. Covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes, reserves or other purposes and as to the use, investment, and disposition of the moneys held in the funds;

n. Establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which shall consent thereto, and the manner in which the consent may be given;

o. Covenant as to the construction, improvement, operation or maintenance of its real and personal property, its replacement, the insurance to be carried on it, and the use and disposition of insurance moneys;

p. Provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage;

q. Provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and prescribe the events of default and the terms and conditions upon

which the bonds, notes or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived;

r. Vest in trustees within or without the State property, rights, powers and duties in trust as the authority may determine, including the right to foreclose any mortgage, and limit the rights, duties and powers of a trustee;

s. Execute mortgages, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties;

t. Pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds or notes;

u. Limit the powers of the authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with the center;

v. Limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes; and

w. Make covenants other than in addition to the covenants herein expressly authorized, of like or different character, and to make covenants to do or refrain from doing acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

C. 4:26-11 Pledges binding.

11. Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made. The revenues, moneys, funds or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge of revenues, moneys or funds is created need be filed or recorded except in the records of the authority.

C. 4:26-12 No personal liability.

12. Neither the members of the authority nor any person executing bonds or notes issued pursuant to this act shall be liable personally on the bonds or notes by reason of their issuance.

C. 4:26-13 Debt service reserve fund.

13. a. The authority may establish reserves, funds or accounts as it determines necessary or desirable to further the accomplishment of the purposes of the authority or to comply with the provisions of any agreement made by or any resolution of the authority.

b. The authority may create and establish a reserve fund in connection with the issuance of bonds to finance the initial development of the center, to be known as the debt service reserve fund, and may pay into the reserve fund (1) any moneys appropriated and made available by the State for the purposes of the fund, (2) any proceeds of sale of the bonds, to the extent provided in the resolution of the authority authorizing their issuance, and (3) any other moneys which may be made available to the authority for the purposes of the fund from any other source. The moneys held in or credited to the debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of the bonds of the authority secured by the reserve fund, as the same mature or become due, the purchase or retirement of the bonds, the payment of interest on the bonds or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity, but moneys in the fund shall not be withdrawn therefrom at any time in an amount that would reduce the amount of the fund to less than the maximum debt service reserve, as hereinafter defined, with respect to the bonds then outstanding and secured by the reserve fund, except for the purpose of paying the principal of, interest on, the premium, if any, on, and the retirement of the bonds secured by the reserve fund maturing or becoming due and for the payment of which other moneys of the authority are not available. Maximum debt service reserve as used in this section means, as of any date of calculation and with respect to the bonds secured by the debt, terms of any contracts of the authority with the holders of the bonds to be provided in any succeeding calendar year for the payment of interest on and serial maturities of the bonds then outstanding and payments required by the terms of any contracts to be made to sinking funds established for the payment or redemption of the bonds, calculated on the assumption that the bonds will cease to be outstanding after the date of the calculation only by reason of

the payment of the bonds at their respective maturities and the making of required payments to sinking funds and the application of those funds in accordance with the terms of the contracts to the retirement of the bonds. Any income or interest earned by, or increment to, the debt service reserve fund due to its investment may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of the debt service reserve fund below the maximum debt service reserve with respect to the bonds of the authority then outstanding and secured by the reserve fund.

c. The authority shall not issue bonds at any time if the maximum debt service reserve with respect to the bonds outstanding and then to be issued and secured by the debt service reserve fund will exceed the amount of the reserve fund at the time of issuance, unless the authority, at the time of issuance of the bonds, shall deposit in the reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in the reserve fund, will be not less than the maximum debt service reserve with respect to the bonds then to be issued and on all other bonds of the authority then outstanding and secured by the reserve fund.

d. To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, provision is made in this section for the accumulation in the debt service reserve fund of an amount equal to the maximum debt service reserve with respect to all bonds of the authority then outstanding and secured by the reserve fund. In order further to assure the maintenance of the debt service reserve fund, there shall be annually appropriated and paid to the authority for deposit in the debt service reserve fund a sum, if any, certified by the chairman of the authority to the Governor as necessary to restore the reserve fund to an amount equal to the maximum debt service reserve with respect to the bonds of the authority then outstanding and secured by the reserve fund. The chairman of the authority shall annually, on or before March 1, make and deliver to the Governor his certificate stating the sum, if any, required to restore the debt service reserve fund of the authority to the amount aforesaid, and the sum certified, if any, shall be appropriated and paid to the authority for deposit in the debt service reserve fund of the authority prior to the end of the first calendar month of the next succeeding State fiscal year. Any payments to be made by the

State to the authority as aforesaid for deposit in the debt service reserve fund are subject to and dependent upon appropriations being made from time to time by the Legislature for that purpose.

e. In computing the debt service reserve fund for the purposes of this section, securities in which all or a portion of the debt service reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

f. Nothing herein contained shall be deemed to cause the bonds or notes of the authority to be a debt or a liability of the State or its political subdivisions other than the authority, and the bonds and notes of the authority, whether or not payable from the debt service reserve fund created pursuant to this section, shall not create or constitute any indebtedness, liability or obligation of this State or any political subdivision or be or constitute a pledge of the faith and credit of the State or its political subdivisions.

C. 4:26-14 Pledge to bondholders; redemption.

14. a. The State pledges to and covenants and agrees with the holders of any bonds or notes issued pursuant to this act that the State will not limit or alter the rights or powers vested in the authority to acquire, construct, maintain, improve, repair and operate the center in any way that would jeopardize the interest of those holders, or to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect rents, fees, rates or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds, together with interest thereon, are fully met and discharged or provided for.

b. The State shall have the right, upon furnishing the authority with sufficient funds, to require the authority to redeem, pay or cause to be paid, at or prior to maturity, in whole or in part, any bonds issued by the authority under this act, provided the redemption or payment is made in accordance with the provision of any contract entered into by the authority with the holders of the bonds.

C. 4:26-15 Authorized investment.

15. The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and

institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to this act, and the bonds or notes shall be authorized security for any public deposits.

C. 4:26-16 Conveyance of public property.

16. All counties and municipalities and other governmental subdivisions, authorities, and public departments, agencies and commissions of the State, notwithstanding any contrary provision of law, are authorized to lease, lend, grant or convey to the authority at its request upon terms and conditions as the governing body or other proper authorities of the counties, municipalities and governmental subdivisions, authorities and departments, agencies or commissions of the State deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the authorizing ordinance of the governing body of the municipality, the authorizing resolution of the governing body of the county, or the regular and formal action of any public body concerned, any real property or interest therein which may be necessary or convenient to the effectuation of the purposes of the authority, including public highways and real property already devoted to public use, provided that the real property is located within the site authorized for the center.

C. 4:26-17 Tax exemption.

17. a. All facilities and other property of the authority are declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any political subdivision thereof, but when any part of the center not occupied or to be occupied by facilities of the center is leased by the authority to another whose property is not exempt and the leasing of which does not make the real estate taxable, the estate created by the lease and its appurtenances shall be listed as the property of the lessee or his assignee, and be assessed and taxed as real estate. All bonds or notes issued pursuant to this act are declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and the bonds and notes, and the

interest thereon and the income therefrom, and all funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of the bonds or notes, or interest thereon, shall be exempt from taxation except for transfer inheritance and estate taxes.

b. To the end that there does not occur an undue loss of future tax revenues by reason of the acquisition of real property by the authority or construction of additional facilities by the authority for the center, the authority annually shall make payments in lieu of taxes to the taxing jurisdiction in which the property is located in an amount computed in each year with respect to each taxing jurisdiction in an amount equal to the taxes which would have been assessed against the property acquired by the authority if the property were not exempt. The payments shall be made in each year commencing with the first year subsequent to the year in which the real property shall have been converted from a taxable to an exempt status by reason of its acquisition by the authority.

c. The authority is further authorized to enter into any agreement with any county or municipality located in whole or part within the South Jersey area, whereby the authority will undertake to pay any additional amounts to compensate for any loss of tax revenues by reason of the acquisition of any real property by the authority for the center or to pay amounts to be used by the county or municipality in furtherance of the development of the center. Every county and municipality so located is authorized to enter into these agreements with the authority and to accept payments which the authority makes thereunder.

C. 4:26-18 Annual report.

18. On or before the last day of February in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. The report shall set forth a complete operating and financial statement covering its 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 the cost of the audit shall be considered an expense of the authority and a copy of it shall be filed with the Comptroller of the Treasury.

C. 4:26-19 Services of State agencies.

19. All officers, departments, boards, agencies, divisions and commissions of the State are authorized to render any of their

services to the authority as requested. The cost and expense of these services shall be met and provided for by the authority.

C. 4:26-20 Conflicts with other acts.

20. It is the intent of the Legislature that if there is a conflict or inconsistency in the provisions of this act and any other acts pertaining to matters herein established or provided for or in any rules and regulations adopted under this act or other acts, to the extent of the conflict or inconsistency, the provisions of this act and the rules and regulations adopted hereunder shall be enforced and the provisions of the other acts and rules and regulations adopted thereunder shall be of no effect.

21. There is appropriated to the authority from the General Fund the sum of \$750,000.00 for the purposes of carrying out its functions and duties pursuant to this act. The appropriation shall be repaid to the General Fund as soon as practicable out of the proceeds of the first bonds issued by the authority or other available funds.

22. This act shall take effect immediately.

Approved December 18, 1985.

CHAPTER 384

AN ACT to amend the title of "An act concerning the designation of certain State purchases and construction contracts as small business set-asides and supplementing Title 52 of the Revised Statutes," approved January 17, 1984 (P. L. 1983, c. 482), so that the same shall read "An act concerning the designation of certain State purchases and construction contracts as set-asides for small businesses, female businesses, and minority businesses and supplementing Title 52 of the Revised Statutes," to amend the body of that act, and to make an appropriation.

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

1. The title of P. L. 1983, c. 482 is amended to read as follows:

Title amended.

An act concerning the designation of certain State purchases and construction contracts as set-asides for small businesses, female businesses, and minority businesses and supplementing Title 52 of the Revised Statutes.

2. Section 1 of P. L. 1983, c. 482 (C. 52:32-17) is amended to read as follows:

C. 52:32-17 Short title.

1. This act shall be known and may be cited as the "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses."

3. Section 2 of P. L. 1983, c. 482 (C. 52:32-18) is amended to read as follows:

C. 52:32-18 Declaration; finding.

2. The Legislature declares that the existence of a strong and healthy free enterprise system is directly related to the well-being and competitive strength of small business, female business and minority business concerns and to the opportunity for small business, female business and minority business to have free entry into business, to grow and to expand; and finds that the State must ensure that a fair proportion of the State's total purchases and contracts for construction, property and services is placed with small business, female business and minority business concerns.

4. Section 3 of P. L. 1983, c. 482 (C. 52:32-19) is amended to read as follows:

C. 52:32-19 Definitions.

3. As used in this act:

a. "Contracting agency" means the State or any board, commission, committee, authority or agency of the State.

b. "Chief" means the Chief of the Office of Small Business Assistance when used in conjunction with the small business and female business set-aside programs, or the Chief of the Office of Minority Business Enterprise when used in conjunction with the minority business set-aside program.

c. "Department" means the Department of Commerce and Economic Development.

d. "Office" means the Office of Small Business Assistance in the Department of Commerce and Economic Development when used in conjunction with the small business and female business set-aside

programs, or the Office of Minority Business Enterprise when used in conjunction with the minority business set-aside program.

e. "Small business" means a business which has its principal place of business in the State, is independently owned and operated and meets all other qualifications as may be established in accordance with P. L. 1981, c. 283 (C. 52:27H-21.1 et seq.).

f. "Small business set-aside contract" means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from small businesses, or (2) a portion of a contract when that portion has been so designated.

g. "Minority business" means a business which has its principal place of business in the State, is independently owned and operated and at least 51% of which is owned and controlled by persons who are black, Hispanic, Portuguese, Asian-American, American Indian or Alaskan natives.

h. "Minority business set-aside contract" means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from minority businesses; or (2) a portion of a contract when that portion is so designated.

i. "Female business" means a business which has its principal place of business in the State, is independently owned and operated and at least 51% of which is owned and controlled by women.

j. "Female business set-aside contract" means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from female businesses; or (2) a portion of a contract when that portion is so designated.

5. Section 4 of P. L. 1983, c. 482 (C. 52:32-20) is amended to read as follows:

C. 52:32-20 Set-aside contracts.

4. a. Notwithstanding the provisions of any State bidding or public contracts laws to the contrary, but subject to any supervening federal statutes or rules, contracting agencies, in consultation with the department, may designate a contract, or a portion thereof, for goods, equipment, construction or services to be awarded by a contracting agency as a small business, female business or minority business set-aside contract pursuant to the goals and procedures established by this 1985 amendatory act,

whenever there is a reasonable expectation that bids may be obtained from at least three qualified small businesses, female businesses or minority businesses capable of furnishing the desired goods, equipment, construction or services at a fair and reasonable price. The designation shall be made prior to the advertisement for bids.

b. Where application of the goals and procedures established under this act would jeopardize the State's participation in a program from which the State receives federal funds or other benefits, the contracting agency may, in consultation with the department, withdraw the affected contracts from consideration or calculation.

6. Section 5 of P. L. 1983, c. 482 (C. 52:32-21) is amended to read as follows:

C. 52:32-21 Goals.

5. a. There are established the goals that contracting agencies award at least 15% of their contracts for small businesses, at least 7% of their contracts for minority businesses and at least 3% of their contracts for female businesses. These goals may, where appropriate, be attained by the direct designation of prime contracts for small business, minority business or female business or, in the case of a prime contract not directly designated for small business, minority business or female business, by requiring that a portion of such a prime contract be subcontracted to a small business, minority business or female business. Each contracting agency shall make a good faith effort to attain the goals established in this section.

b. The goals established in subsection a. of this section shall be attained independently of each other, and any given contract may be counted for purpose of attaining the small business goal, the minority business goal, or the female business goal, but not towards more than one goal. Pursuant to the goals established by this act, a total of at least 25% of the State's procurement contracts shall be awarded to small businesses, minority businesses, and female businesses.

c. For purposes of attaining these goals, contracting agencies shall, when necessary, specifically set aside contracts or portions of contracts for which only small businesses, minority businesses or female businesses may bid.

7. Section 6 of P. L. 1983, c. 482 (C. 52:32-22) is amended to read as follows:

C. 52:32-22 Dispute over designation.

6. If the department and the contracting agency disagree as to whether a set-aside is appropriate for a contract or a portion of a contract, the dispute shall, within seven days, be submitted to the State Treasurer, or his designee, for final determination.

8. Section 7 of P. L. 1983, c. 482 (C. 52:32-23) is amended to read as follows:

C. 52:32-23 Advertisement for bids.

7. The advertisement for bids on a set-aside contract shall indicate the invitation to bid as a set-aside. The advertisement shall be in such newspaper or newspapers as will best give notice thereof to appropriate bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding among those businesses for whom the contract is being set aside. The newspaper or newspapers in which the advertisement shall appear shall be selected by the contracting agency in consultation with the office. The advertisement shall designate the time and place at which sealed proposals shall be received and publicly opened and read, the amount of the cash or certified check, if any, which shall accompany each bid and such other items as the contracting agency may deem proper. The advertisement shall be made by that contracting agency pursuant to the procedure set forth in the law governing State contracts, where this act is inconsistent with that law.

9. Section 8 of P. L. 1983, c. 482 (C. 52:32-24) is amended to read as follows:

C. 52:32-24 Lists of designated businesses.

8. a. The department shall establish reasonable regulations appropriate for controlling the designation of prospective small business bidders, minority business bidders and female business bidders and shall maintain lists of designated businesses.

b. The department shall establish a procedure whereby businesses may request inclusion on appropriate lists for small businesses, minority businesses and female businesses.

c. The department shall establish a procedure for annually reviewing the lists and determining whether the businesses on the lists shall continue to be designated as small businesses, minority businesses and female businesses.

d. The department shall establish a procedure whereby the designation of a business as a small business, minority business or female business may be challenged by a third party.

e. Any procedures established pursuant to subsections b., c., and d. of this section shall include notice to the business whose designation is at issue and an opportunity for a hearing at the department. The hearing shall not be considered a contested case under the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

10. Section 9 of P. L. 1983, c. 482 (C. 52:32-25) is amended to read as follows:

C. 52:32-25 Bidding restricted.

9. When a contract or portion thereof has been designated as a set-aside, invitations for bids shall be confined to businesses designated by the department as appropriate for the set-aside and bids from other bidders shall be rejected. The purchase, contract or expenditure of funds shall be awarded among the businesses, considering formality with specifications and terms, in accordance with the statutes and rules governing purchases by the contracting agency. The award shall be made with reasonable promptness by the contracting agency with written notice to the department.

11. Section 10 of P. L. 1983, c. 482 (C. 52:32-26) is amended to read as follows:

C. 52:32-26 Set-aside cancellation.

10. If the contracting agency determines that the acceptance of the lowest responsible bid on a set-aside contract will result either in the payment of an unreasonable price or in a contract otherwise unacceptable pursuant to the statutes and rules governing purchases by that agency, the contracting agency shall reject all bids and withdraw the designation of the set-aside contract. Bidders shall be notified of the set-aside cancellation, the reasons for the rejection and the State's intent to resolicit bids on an unrestricted basis. The canceled solicitation shall not be counted as a set-aside for the purpose of attaining established set-aside goals. Except in cases of emergency, prior to the final award of the contract, the contracting agency shall provide an opportunity for a hearing on the reasons for the rejection of the set-aside designation. This hearing shall not be considered a contested case under the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

12. Section 11 of P. L. 1983, c. 482 (C. 52:32-27) is amended to read as follows:

C. 52:32-27 Annual report.

11. Each contracting agency shall submit an annual report to the department according to a schedule announced by the department. This report shall include the following information:

a. The total dollar value and number of contracts awarded to small businesses, minority businesses and female businesses, including a separate accounting of any set-aside contracts, and the percentage of the total State procurements by the contracting agency the figure of total dollar value and the number of set-asides reflect;

b. The types and sizes of businesses receiving set-aside awards and the nature of the purchases and contracts; and

c. The efforts made to publicize and promote the program.

The department shall receive and analyze the reports submitted by the contracting agencies and, utilizing these data, submit an annual report to the Governor and the Legislature showing the progress being made toward the objectives and goals of this act during the preceding fiscal year.

13. Section 12 of P. L. 1983, c. 482 (C. 52:32-28) is amended to read as follows:

C. 52:32-28 Plan for achieving goals.

12. Each contracting agency shall annually develop, in consultation with the department, a plan for achieving its small business, minority business and female business goals.

14. Section 14 of P. L. 1983, c. 482 (C. 52:32-30) is amended to read as follows:

C. 52:32-30 Penalty for incorrect information.

14. Where the department determines that a business has been classified as a small business, minority business or female business on the basis of false information knowingly supplied by the business and has been awarded a contract to which it would not otherwise have been entitled under this act, the department shall:

a. Assess the business any difference between the contract amount and what the State's cost would have been if the contract had not been awarded in accordance with the provisions of this act;

b. In addition to the amount due under subsection a., assess the business a penalty in an amount of not more than 10% of the amount of the contract involved;

c. Order the business ineligible to transact any business with the State for a period of not less than three months and not more than 24 months; and

d. Prior to any final determination, assessment or order under this section, afford the business an opportunity for a contested case hearing pursuant to P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

All payments to the State pursuant to subsection a. of this section shall be deposited in the fund out of which the contract involved was awarded. All payments to the State pursuant to subsection b. of this section shall be deposited in the General State Fund.

15. There is appropriated to the Department of Commerce and Economic Development the sum of \$150,000.00 from the General Fund for the purpose of enabling the department to carry out its duties and responsibilities under this act.

16. This act shall take effect six months after the date of enactment.

Approved December 18, 1985.

CHAPTER 385

AN ACT providing for the establishment of certain subsidiaries by banks, bank holding companies, and savings banks, and supplementing P. L. 1948, c. 67 (C. 17:9A-1 et seq.).

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

C. 17:9A-24.14 Bank loans authorized for business enterprises.

1. Any bank, bank holding company, or savings bank may establish a subsidiary for the purpose of originating loans or loans and technical assistance packages for purchase by the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises established pursuant to P. L. 1985, c. 386 (C. 34:1B-47 et seq.) or may originate those loans directly, if the loans and assistance packages meet the underwriting standards established by that act, and the businesses to which the loans are made and assistance is provided are eligible businesses as defined by that act.

2. This act shall take effect upon the enactment into law of P. L. 1985, c. 386 (C. 34:1B-47 et seq.).

Approved December 18, 1985.

CHAPTER 386

AN ACT establishing the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises and making an appropriation therefor.

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

C. 34:1B-47 Findings, declarations.

1. The Legislature finds and declares:

a. That entrepreneurship is a vital component of the national heritage that fosters the health and dynamism of the overall economy;

b. That despite their contribution as major generators of employment, small businesses are struggling to survive in the private sector;

c. That due to a historical legacy of disregard and discrimination, minorities and women control a disproportionately small fraction of the productive resources of the State and are therefore largely excluded from the mainstream of the overall economy;

d. That the problems of inadequate capital and management expertise that pertain to businesses owned by minorities and women are the same problems that pertain, in varying degrees, to all small businesses;

e. That the public sector at both the national and State levels has recognized the appropriateness of the role of encouraging small businesses generally and women and minorities in particular;

f. That the continuing disparity of capital accumulation in the South Jersey region has hampered the survival of small entrepreneurs and the economic development and independence of minorities and women, and has limited opportunities for enterprise development by individuals from each of these populations;

g. That economic development within the small business and minority communities and among women increases the prosperity of the entire State by generating revenues and reducing the State burden of unemployment, welfare and other supportive social services;

h. That in order to promote these goals it is necessary to establish a permanent government entity, an authority, with a long-term

mandate for the delivery of financial and overall assistance to small businesses and businesses owned by minorities and women;

i. That the authority shall focus efforts clearly on areas of greatest need and shall have a commitment toward the establishment of quality programs;

j. That the authority shall be responsible, both directly and as an intermediary, for providing financing and for coordinating a wide range of intensive and ongoing business expertise;

k. That the authority shall pursue its mandate in accordance with a well-conceived business strategy and underwriting standards that approximate those utilized by traditional lenders;

l. That the authority's success in fulfilling its mandate shall be measured by the ultimate viability of the enterprises it assists.

C. 34:1B-48 Definitions.

2. For the purposes of this act:

a. "Authority" means the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises established pursuant to the provisions of this act;

b. "Board" means the board of directors of the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises established pursuant to the provisions of this act;

c. "Eligible business" means a small business or a minority or women's business determined to be eligible to receive assistance and participate in programs according to the standards established pursuant to this act;

d. "Minority" means a person who is:

(1) Black, which is a person having origins in any of the black racial groups in Africa; or

(2) Hispanic, which is a person of Spanish or Portuguese culture, with origins in Mexico, South or Central America, or the Caribbean islands, regardless of race; or

(3) Asian-American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, and Indian subcontinent, Hawaii, or the Pacific Islands; or

(4) American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America;

e. "Minority business" means a business in which at least 51% of the beneficial ownership of the business is held by minorities, and in which the majority of the management are minorities;

f. "Small business" means a business in which at least 51% of the beneficial ownership of the business is held by persons other than minorities or women and the majority of the management of which is other than minorities or women, and which business is of a type and size defined by the Commissioner of the Department of Commerce and Economic Development as a small business, which definition shall be similar to that of the federal Small Business Administration;

g. "Women" means a woman, regardless of race;

h. "Women's business" means a business in which at least 51% of the beneficial ownership of the business is held by women, and in which the majority of the management are women.

C. 34:1B-49 Development Authority for Small Businesses, Minorities and Women's Enterprises.

3. a. There is established in but not of the Department of Commerce and Economic Development the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises, which shall assist in providing financing and other services to eligible businesses. The board of directors of the authority shall consist of six members appointed by the Governor with the advice and consent of the Senate. The Executive Director of the New Jersey Economic Development Authority, the Commissioner of the Department of Commerce and Economic Development, and the State Treasurer, or their designees, shall be members ex officio. At least one member of the board shall be an investment banker, one member shall have experience in small business finance, and one member shall have experience in market analysis. At least one member of the board shall be a minority, and one member shall be a woman. One member of the board shall be a resident of Atlantic City. In addition to the six members of the board, the Governor shall appoint a nonvoting member who represents the casino industry. Initially, the Governor shall appoint two members for a term of one year, two members for a term of two years, and three members for a term of three years. Thereafter, all members appointed by the Governor shall serve for three-year terms. Each member shall hold office for the term of his appointment and until his successor has been appointed and qualified. 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.

b. Any member of the board may be removed by the Governor for cause after notice and hearing.

c. The Governor shall select a chairman and the members of the board shall elect a vice chairman. The authority shall recommend at least three candidates for the position of Executive Director to the Governor, who shall appoint one of the candidates to the position, with the advice and consent of the Senate. A majority of the members of the board shall constitute a quorum. Any action may be taken by the affirmative vote of a majority of the quorum.

d. The members of the board shall serve without compensation, but shall be reimbursed by the authority for their actual expenses. 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 authority.

e. A true copy of the minutes of every meeting of the board, certified by the secretary of the board, shall be delivered by the secretary to the Governor. No action taken at a meeting shall have effect until the 10th day following the delivery of the minutes to the Governor, Saturdays, Sundays and public holidays excepted, unless within that period the Governor has approved the minutes, in which case the action shall become effective upon his approval. If, within the 10-day period, the Governor returns the copy of the minutes with his veto of any action taken by the board or any member thereof at the meeting, that action shall be null and void and of no effect. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the 10-day period.

f. On or before March 31 of every year, the authority shall make an annual report on its activities in the preceding calendar year to the Governor and the Legislature, which shall include a statement of its investment policy and its underwriting guidelines as well as a complete operating and financial statement covering the authority's operations during the preceding year. The board shall cause an audit to be made at least once in each calendar year by certified public accountants. A copy of the audit shall be filed with the State Treasurer and shall be available for public inspection.

C. 34:1B-50 Powers of authority.

4. The authority shall have the power:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business, which shall include a code of ethics with respect to conflicts of interest;

b. To sue or be sued in the name of the authority, provided that a judgment against the authority shall not create any direct liability against its directors, employees, or its agents;

c. To indemnify its directors, employees and agents for any and all claims, suits, costs of investigations, costs of defense, settlements, or judgments against them on account of an act or omission in the scope of a director's duties, or an employee's or agent's employment, but the authority shall refuse to indemnify if it determines that the act or failure to act was because of actual fraud, willful misconduct, or actual malice;

d. To enter into any contracts as are necessary or proper to carry out the provisions and purposes of this act;

e. To establish and maintain any reserve or insurance funds as may be necessary to carry out the provisions of this act;

f. To sell, convey, lease, purchase, or otherwise acquire real or personal property to carry out its functions under the act;

g. To borrow money, to issue bonds, notes, or other debt instruments, which may be at a fixed rate of return or otherwise, commensurate with the risk, and to provide for the rights of holders thereof as provided in this act, which obligations shall be an eligible investment pursuant to the provisions of section 144 of P. L. 1977, c. 110 (C. 5:12-144) and section 33 of P. L. 1984, c. 218 (C. 5:12-181);

h. Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available therefor and to hold, cancel, or resell these bonds or notes;

i. To contract for and to accept any gifts, grants, loans of funds or financial or other aid in any form from any person, including an individual, authority, partnership, or otherwise, or from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality, or political subdivision thereof;

j. In connection with any application for financing or other assistance under this act, to require and collect any reasonable fees and charges, including commitment fees, as the authority may deem necessary for its services;

k. Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of bonds and notes, in any obligations, securities, and other investments which the authority deems prudent;

l. To appoint and employ any persons as may be necessary to carry out the purposes of this act, and to determine their qualifications, terms of office, duties and compensation without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

m. To extend credit, make long-term or short-term loans, loan guarantees, or provide other financial assistance, including letters of credit or guarantees of letters of credit;

n. To establish underwriting standards for eligibility for financial assistance, as provided in section 5 of this act;

o. To establish a financial and technical assistance investment policy which delineates the proposed allocation of assistance by the authority by type of business, which policy shall include a provision that no more than 50% of the total assistance made available by the authority be made available to small businesses, and no more than 25% of the total assistance made available by the authority be made available to minorities and 25% of the total assistance made available by the authority be made available to women; except that notwithstanding the foregoing, and in addition to the funds otherwise allocated by the authority to minorities and women pursuant to this subsection, 100% of the funds made available pursuant to the provisions of section 33 of P. L. 1984, c. 218 (C. 5:12-181), shall be made available to minorities and women, 50% of which shall be made available to women, and 50% of which shall be made available to minorities and shall be invested in accordance with the geographic restrictions established by that act; provided, however, that any repayment of principal and interest due to the Casino Reinvestment Development Authority with respect to obligations purchased or monies otherwise invested in the New Jersey Development Authority for Small Businesses, Minorities, and Women's Enterprises shall be the obligation of the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises;

p. To establish standards for providing a letter of credit or other guarantee for businesses which are unable to secure performance bonds;

q. To take any security which it deems necessary in connection with any direct loan or any guaranteed loan or other extension of credit;

r. To purchase any loan or assistance package which is consistent with the underwriting standards established by the authority from any person, including any financial institution or subsidiary thereof, and to contract with any person to originate these loans;

s. To participate with financial institutions and other investors in providing financial assistance to eligible businesses, under underwriting standards established by the authority, by means of direct loan participations or loan guarantees;

t. To make any rules and regulations necessary to effectuate the purposes of this act;

u. To take any other actions which are reasonable and necessary to effectuate the provisions of this act.

C. 34:1B-51 Loans, other extensions of credit.

5. a. The authority may make long-term or short-term loans or other extensions of credit to eligible businesses under terms and conditions established by the authority. The authority shall establish uniform underwriting standards for loans and other extensions of credit, which shall include minimum equity requirements, and the use by the businesses of an approved accounting system. The authority may, either as a condition of granting the loan or at any time during the term of the loan, and in conjunction with the Commissioner of the Department of Commerce and Economic Development, require the use by the businesses of technical assistance approved by it.

b. The authority may cooperate with the New Jersey Economic Development Authority and the federal Small Business Administration in arranging assistance for eligible businesses or may participate with these agencies in providing loans or other extensions of credit to eligible businesses.

c. The authority may contract with any depository institution to maintain a portion of its funds on deposit for a specified period of time at a specified rate of interest as part of an arrangement whereby the depository institution agrees to make loans or other extensions of credit to eligible businesses, except that the compensating balance so deposited shall not be treated as a guarantee.

C. 34:1B-52 Waiver of bonding requirements.

6. a. The authority shall establish requirements as may be necessary and practical for the use of minority or women's businesses

on projects financed in whole or in part by the authority. The authority may waive bonding requirements in full or in part in order to facilitate the use of a minority or women's business if:

- (1) The minority or women's business has been rejected by two surety companies authorized to do business in this State; and
- (2) The minority or women's business meets the underwriting standards established pursuant to subsection p. of section 4 of this act.

The authority may require a cash deposit, increase the amount of retention, or limit or eliminate periodic payments. No waiver may be extended more than three times to any one contractor.

b. The authority may provide assistance to eligible businesses which are unable to secure bonding for projects other than those financed by the authority. Upon presentation of evidence in writing that an eligible business has been rejected by two surety companies authorized to do business in this State, and if the applicant meets the underwriting standards established pursuant to subsection p. of section 4 of this act, the authority may guarantee the performance of the applicant through a letter of credit or by other means.

C. 34:1B-53 Issuance of bonds.

7. The authority shall, by resolution of the board, have the power to incur indebtedness, borrow money and issue bonds to provide long-term and short-term financing to eligible businesses pursuant to the provisions of this act. Every issue of its bonds shall be general obligations of the authority payable from any revenues of the authority, subject only to agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. The bonds may be issued in one or more series and shall bear dates, mature at times not exceeding 40 years, bear interest at rates, be in a form, either coupon or registered, carry any conversion or registration privileges, have any rank or priority, be executed in a manner, be payable from a source in a medium of payment at places inside or outside the State, and be subject to any terms of redemption, with or without premium, as the resolution may provide. Bonds of the authority may be sold by the authority at a public or private sale at prices as the authority may determine.

C. 34:1B-54 No State liability.

8. Bonds and notes of the authority issued under the provisions of this act shall not be in any way a debt or liability of the State

or of any political subdivision thereof or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof but all bonds and notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the agency and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds or notes.

C. 34:1B-55 Bonds fully negotiable.

9. Any bond or other obligation issued by the authority pursuant to this act shall be fully negotiable, within the meaning and for the purposes of Title 12A of the New Jersey Statutes, and each holder of a bond or other obligation or any coupon appurtenant thereto, by accepting the bond or coupon, shall be conclusively deemed to have agreed that the bond, obligation or coupon is and shall be fully negotiable within the meaning and for the purposes of Title 12A.

C. 34:1B-56 Power to covenant.

10. In order to secure the payment of its bonds and in addition to its other powers, the authority shall have power by resolution to covenant and agree with the several holders of the bonds, as to:

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

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

c. The use and disposition of any moneys of the authority, including all revenues or other moneys derived or to be derived from any of the authority's activities;

d. The pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the authority to secure the payment of the principal or interest on the bonds or any other obligations and the powers and duties of any trustees with regard thereto;

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

f. The rents, fees or other charges for the use of any projects, including any part of any project previously constructed or acquired and any part, replacement or improvement of any project subsequently constructed or acquired, and the fixing, establishment, collection and enforcement of the same;

g. Limitation on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the authority;

h. Vesting in trustees, fiscal or escrow agents within or without the State property, rights, powers and duties in trust as the authority may determine and limiting the rights, duties and powers of those trustees or agents;

i. Payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the resolution or of any covenant or contract with the holders of the bonds;

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

k. Any other matter or course of conduct which, by recital in the resolution, is declared to further secure the payment of the principal of or interest on the bonds.

C. 34:1B-57 Casino authority investments.

11. On obligations purchased or monies otherwise invested by the Casino Reinvestment Development Authority as required by section 33 of P. L. 1984, c. 218 (C. 5:12-181), the authority shall covenant and agree to guarantee the Casino Reinvestment Development Authority at least the rate of return established by subsection d. of section 14 of P. L. 1984, c. 218 (C. 5:12-162). The Casino Reinvestment Development Authority shall have a priority interest with respect to obligations purchased or monies otherwise invested in the authority, so long as the security interest is perfected in the manner set forth within Title 12A of the New Jersey Statutes.

C. 34:1B-58 Contracts binding.

12. All provisions of the resolution and all covenants and agreements shall constitute valid and legally binding contracts between

the authority and the several holders of the bonds, regardless of the time of issuance of the bonds, and shall be enforceable by holders by appropriate action, suit or proceeding in any court of competent jurisdiction or by proceeding in lieu of prerogative writ.

C. 34:1B-59 No personal interest.

13. No member of the board, officer, employee or agent of the authority shall have an interest, either directly or indirectly, in any project, transaction or business activity in which the authority is a party.

C. 34:1B-60 Expenses from revenues.

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

C. 34:1B-61 Authorized investment.

15. Notwithstanding the provisions of any other law to the contrary, the State, its political subdivisions, agencies and instrumentalities, their officers, boards, commissioners, departments, any trust company, State or federally chartered bank, savings bank, savings and loan association, investment companies, insurance companies, all executors, administrators, guardians and fiduciaries, and all other persons whosoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may legally invest funds belonging to them or within their control in bonds or notes issued by the authority pursuant to the provisions of this act. These bonds and notes are securities which may properly and legally be deposited with and received by any State or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

16. There is appropriated from the General Fund \$90,000.00 to effectuate the purposes of this act, which shall be repaid by the authority to the State Treasurer from the proceeds of its activities in five annual installments, beginning with the third year following enactment.

17. This act shall take effect immediately.

Approved December 18, 1985.

CHAPTER 387

AN ACT concerning the registration of vehicles and supplementing
Title 39 of the Revised Statutes.

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

C. 39:3-5.1 Federal tax payment required.

1. The Director of the Division of Motor Vehicles shall refuse registration of a vehicle which is subject to the federal heavy vehicle use tax if the applicant has failed to furnish proof of payment, in the form prescribed by the United States Secretary of the Treasury, that the federal heavy vehicle use tax imposed by section 4481 of the Internal Revenue Code of 1954 (26 U.S.C. § 4481) has been paid.

2. This act shall take effect immediately.

Approved December 19, 1985.

CHAPTER 388

AN ACT concerning the composition of the Superior Court and
amending N. J. S. 2A:2-1.

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

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

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 330 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	8
Bergen	24
Burlington	5
Camden	14
Cape May	3

Cumberland	5
Essex	26
Gloucester	8
Hudson	14
Hunterdon	2
Mercer	8
Middlesex	18
Monmouth	12
Morris	11
Ocean	10
Passaic	14
Salem	2
Somerset	5
Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. This act shall take effect immediately.

Approved December 19, 1985.

CHAPTER 389

AN ACT to exclude certain shorthand reporting services from employment subject to unemployment compensation and temporary disability contributions and amending R. S. 43:21-19.

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 section 43:21-7 of this Title 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) "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.

(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 section 43:21-6 of this Title 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 section 43:21-4 of this Title.

(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 and 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 employ-

ing 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 section 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 policymaking 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 1954) in the employ of an American employer (other than the service which is deemed employment under the provisions of paragraph 43:21-19 (i) (2) or (5) or 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 any other 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 1954 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 to 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 valid certification of registration under the Migrant and Seasonal Agricultural Worker 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 for 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 purposes 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 an instrumentality of the United States exempt 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 (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 provid-

ing 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 demon-

strators 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 Organization 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 lbs. 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 freelance 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 employ-

ment, 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.

(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 commissions 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 on March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in paragraph 1-a of c. 322 of the laws of 1938, entitled "An act concerning investment companies, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'investment companies.'"

(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 non-profit 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

et seq.); or is qualified for that designation in the judgment of the authority; and

b. It meets the criteria established by the authority pursuant to this act relating to the incidence of poverty, unemployment and general economic distress.

C. 52:27H-69.1 Intermunicipal zone limitation.

2. (New section) Eligible zones having areas defined by a continuous border within two or more contiguous qualifying municipalities shall be limited to one located in the 10 southernmost counties of the State.

3. This act shall take effect immediately.

Approved December 20, 1985.

CHAPTER 392

AN ACT to amend "An act to create a commission to study sex discrimination in the statutes, prescribing its membership, powers, and duties and making an appropriation therefor," approved July 6, 1978 (P. L. 1978, c. 68).

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

1. Section 2 of P. L. 1978, c. 68 is amended to read as follows:

2. There is hereby created a commission to consist of nine members, two members of the Senate, to be appointed by the President of the Senate, no more than one of whom shall be of the same political party; two members of the General Assembly, to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party; the Director of the Division on Women or her designee; and four public members, to be appointed by the Governor, no more than two of whom shall be of the same political party.

2. Section 3 of P. L. 1978, c. 68 is amended to read as follows:

3. Each of the members of the commission appointed from either House of the Legislature shall serve only as long as he shall be a

member of that House, the Director of the Division on Women shall serve as long as that position is held and all public members shall serve for terms of two years from the dates of their initial appointments and until their respective successors shall be appointed and shall qualify. Within 30 days of the effective date of this amendatory act, a chairperson shall be elected by the commission from among its members, who shall serve for two years during her or his membership on the commission. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

3. Section 11 of P. L. 1978, c. 68 is amended to read as follows:

11. This act shall take effect immediately and shall expire on January 12, 1988.

4. This act shall take effect immediately.

Approved December 20, 1985.

CHAPTER 393

AN ACT concerning the pensions of widows and widowers of members of the Police and Firemen's Retirement System and 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 35% 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.

c. As of December 18, 1967, all widows' pensions previously granted pursuant to the provisions of 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 said date, pursuant to the provisions of section 7(3) of chapter 255 of the laws of 1944, as amended, will be subject to a minimum, annual, aggregate payment of \$1,600.00.

C. 43:3B-8.1 Calculation of annual adjustment.

2. (New section) 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 1985 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.) as amended and supplemented by P. L. 1969, c. 169 shall be calculated as of the date of retirement of the member of the retirement system.

3. This act shall take effect immediately.

Approved December 20, 1985.

CHAPTER 394

AN ACT establishing a Commission on Vocational and Technical Training in Correctional Institutions and making an appropriation.

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

1. There is established a Commission on Vocational and Technical Training in Correctional Institutions to consist of 15 members to be appointed as follows:

a. The Commissioner of Corrections, the Commissioner of Commerce and Economic Development, the Commissioner of Education, the Commissioner of Labor, and the Public Advocate, or their respective designees, whose names shall be filed with the commission;

b. Six citizens of this State to be appointed by the Governor, not more than three of whom shall be members of the same political party, and of whom two shall have knowledge of the current and anticipated needs of industry and business with respect to employee skills, two shall have knowledge of the structure and operations of the State correctional system, and two shall represent the interests of the inmates of correctional institutions; and

c. Two members of the Senate to be appointed by the President of the Senate and two members of the General Assembly to be appointed by the Speaker of the General Assembly, of which no more than one of each group of two shall be members of the same political party.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members shall receive no compensation for their services but shall be entitled to reimbursement for reasonable expenses incurred in the performance of their official duties.

2. The commission shall meet for the purpose of organization as soon as may be practicable after the appointment of its members, and thereafter at the call of its chairman or upon the written request of at least eight members. The members shall elect a chairman and vice-chairman from among their members.

3. It shall be the duty of the commission to conduct a study of the vocational and training programs in State correctional institutions and to make recommendations with regard to the programs that should be offered that will provide inmates with the technical knowledge and skills that will be useful and suitable for employment in industry and business. In conducting the study, the commission shall consult with and coordinate its activities with any existing State agency involved with vocational education and job training.

4. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission, agency or

other public entity as it may require and as may be available to it for its purposes, and to employee research, stenographic and clerical assistance and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

5. The commission may meet and hold hearings in furtherance of its general purposes at such place or places as it shall designate, during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Legislature and the Governor within one year after the effective date of this act.

6. There is appropriated \$75,000.00 from the General Fund to the Department of Corrections to provide staff assistance to the commission and to provide payment for expenses incurred by the commission.

7. This act shall take effect immediately and shall expire one year following enactment.

Approved December 20, 1985.

CHAPTER 395

AN ACT concerning the exemption of certain property from taxation and amending R. S. 54:4-3.6.

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

1. R. S. 54:4-3.6 is amended to read as follows:

Tax-exempt property.

54:4-3.6. The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the

State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, religious worship or asylum or schools for feebleminded or idiotic persons and children; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually and exclusively used in the work of associations and corporations organized exclusively for religious or charitable purposes; all buildings actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the

purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of feeble-minded, mentally retarded, or idiotic men, women, or children shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of feeble-minded, mentally retarded, or idiotic men, women, or children; provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit, except that the exemption of the buildings and lands used for charitable, benevolent or religious purposes shall extend to cases where the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings; provided the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes. The foregoing exemption shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which the exemption is claimed or where an educational institution, as provided herein, has leased said property to a historical society, or association or to a corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes.

2. This act shall take effect immediately and shall be applicable to real property taxes levied or payable for the calendar year 1986 and thereafter.

Approved December 20, 1985.

CHAPTER 396

A SUPPLEMENT to "An act concerning the care, custody, guardianship, maintenance and supervision of dependent and neglected children, promoting home life therefor, providing for the financing thereof, and repealing certain statutes relating thereto," approved May 31, 1951 (P. L. 1951, c. 138; C. 30:4C-1 et seq.).

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

C. 30:4C-26.8 Investigation of prospective adoptive, foster parents.

1. A person, in addition to meeting other requirements as may be established by the Department of Human Services, shall become a foster parent or eligible to adopt a child only upon the completion of an investigation to ascertain if there is a State or federal record of criminal history for the prospective foster or adoptive parent or any other adult residing in the prospective parent's home. The investigation shall be conducted by the Division of State Police in the Department of Law and Public Safety and shall include an examination of its own files and the obtaining of a similar examination by federal authorities.

If the prospective foster or adoptive parent or any adult residing in the prospective parent's home has a record of criminal history, the Department of Human Services shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to become a foster parent or adoptive parent or the suitability of placing a child in that person's home, as the case may be.

2. This act shall take effect immediately.

Approved January 2, 1986.

CHAPTER 397

AN ACT establishing the Advanced Technology Center in Polymer Processing and Surface Modification, supplementing Title 18A of the New Jersey Statutes and making an appropriation therefor.

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

C. 18A:64J-38 Findings, declarations.

1. The Legislature finds and declares that polymer or plastics processing and surface modification are areas of extreme importance to industry worldwide and that advances in these areas are expected to produce significant economic growth and increases in productivity. New Jersey, because of its strength in petrochemicals as well as the foothold which its institutions of higher education have already gained in polymer processing and surface modification research, is in an excellent position to be a major contributor and participant in this economic growth and development. To this end, the Legislature finds that the establishment of an advanced technology center in polymer processing and surface modification will generate additional research and technological innovations to promote industrial development and economic growth.

C. 18A:64J-39 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research;

b. "Business incubation facilities" means low-cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P. L. 1985, c. 102 (C. 52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey,

which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

C. 18A:64J-40 Polymer processing, surface modification center.

3. There is established the Advanced Technology Center in Polymer Processing and Surface Modification, hereinafter referred to as the center, to be located in a private or public institution of higher education as designated by the commission. Other public and private institutions of higher education and their faculties may be considered for participation in the center in the future by the commission.

The establishment of the center shall include a commitment from business and industry in the State to finance a percentage of the center's operating costs.

C. 18A:64J-41 Subject to commission certification.

4. The center shall not be established pursuant to section 3 of this act until such time as the commission formally certifies in writing to the Governor, the Speaker of the General Assembly, and the President of the Senate, the amount of funding necessary for the establishment and operation of the center, as well as its conclusion that the establishment of the center should proceed, and that the center will add substantially to the technological, economic, and academic growth of the State of New Jersey.

C. 18A:64J-42 Appointment of director.

5. As soon as may be practicable, the participating institution or institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center.

C. 18A:64J-43 Duties of director.

6. The participating institutions, through the director, shall:

- a. Administer and operate the center;
- b. Appoint, remove and transfer personnel;
- c. Establish programs in the center to promote polymer processing and surface modification research and industries; and
- d. Take all action necessary and proper for the operation of the center.

C. 18A:64J-44 Annual budget request.

7. The director of the center shall submit its annual budget request to the commission for approval.

C. 18A:64J-45 Functions of center.

8. The center, where appropriate, and in consultation with the commission, shall:

- a. Make recommendations to the commission concerning innovation partnership grants;
- b. Support and promote existing programs in polymer processing and surface modification research and industries and ensure that all sectors of private industry have ready access to the personnel and programs of the center;
- c. Make low-cost business incubation facilities available to new industry working in the field of polymer processing and surface modification; and
- d. Promote technology extension services to businesses engaged in polymer processing and surface modification related applications.

9. There is appropriated to the commission the sum of \$20,000.00* from the General Fund for planning and to effectuate the purposes of this act.

10. This act shall take effect on the 60th day following enactment.

Approved January 2, 1986.

* Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 397 (Assembly Bill No. 2127 (2nd OCR))

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Assembly Bill No. 2127 (2nd OCR) at the time of signing it this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill appropriates \$100,000 to the Commission on Science and Technology for a study to determine whether the need exists for the establishment of an Advanced Technology Center in Polymer Processing and Surface Modification.

Since I began my term as Governor, high technology has been one of the hallmarks of my Administration. In 1984, the people of New Jersey issued what I believe was a mandate, when they overwhelmingly supported the Jobs, Science and Technology Bond Act. Since that time, I have signed legislation establishing a permanent Commission on Science and Technology and creating four academic industrial centers which are largely funded by the bond issue. Those four advanced technology centers are well on their way to establishing New Jersey as the state on the cutting edge of research in the areas of commercial and industrial applications of high technology. In addition, the viability of a fifth advanced technology center in biomolecular research is currently being studied by the Commission.

While I recognize that an Advanced Technology Center in Polymer Processing and Surface Modification may serve to benefit the State, I believe that it is the responsibility of the New Jersey Commission on Science and Technology to recommend which new centers, if any, should be established or which new fields should be investigated. I cannot continue to approve legislation in which the Legislature, and not the Commission, calls for the creation of new centers. After all, the Commission was charged with this responsibility when it was made a permanent body by the Legislature. In addition, I will no longer entertain such piecemeal appropriations to the Commission to conduct these studies. The Commission is more than adequately funded and already has the necessary resources to conduct such investigations.

In the Report of the Governor's Commission on Science and Technology, the Commission narrowed to five the number of advanced technology fields that they believed should "receive priority support in the coming decade." The list included: Biotechnology, Hazardous and Toxic Substance Management, Materials

Science, Food Technology and Telematics. Four centers have already been established to address most of the above recommendations, and I urge caution before creating more centers without allowing these four to take root and grow.

In addressing the issue of polymer processing and surface modification, the original Commission suggested the establishment of a "Technology Extension Service" as a satellite of the Advanced Technology Center in Ceramics. While the Commission also noted that, in the long run, the development of surface modification technology would best be advanced through the formation of a separate advanced technology center, I see the satellite concept as a more viable option at this time.

In light of the above, I believe that the area of polymer processing and surface modification is one worthy of further study by the Commission. I feel strongly, however, that the Commission should take serious note of its original recommendation, the creation of a "Technology Extension Service" as a satellite of the already authorized Ceramics Center. Finally, I am reducing the appropriation to conduct the study to \$20,000, a sum, which I believe is adequate to fund the required review.

Page 4, Section 9, Line 2: Delete "\$100,000.00" and insert "\$20,000.00"

Respectfully,

THOMAS H. KEAN

Governor

CHAPTER 398

AN ACT establishing a State Planning Commission and an Office of State Planning in the Department of the Treasury, supplementing Title 52 of the Revised Statutes, amending P. L. 1975, c. 208 and P. L. 1975, c. 291, repealing sections 1, 13, 14, 15 and 16 of P. L. 1961, c. 47 and sections 26 and 27 of P. L. 1966, c. 293 and making an appropriation therefor.

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

C. 52:18A-196 Findings, declarations.

1. (New section) The Legislature finds and declares that:

a. New Jersey, the nation's most densely populated State, requires sound and integrated Statewide planning and the coordination of Statewide planning with local and regional planning in order to conserve its natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal;

b. Significant economies, efficiencies and savings in the development process would be realized by private sector enterprise and by public sector development agencies if the several levels of government would cooperate in the preparation of and adherence to sound and integrated plans;

c. It is of urgent importance that the State Development Guide Plan be replaced by a State Development and Redevelopment Plan designed for use as a tool for assessing suitable locations for infrastructure, housing, economic growth and conservation;

d. It is in the public interest to encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services and facilities, giving appropriate priority to the redevelopment, repair, rehabilitation or replacement of existing facilities and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this State;

e. A cooperative planning process that involves the full participation of State, county and local governments as well as other public and private sector interests will enhance prudent and rational development, redevelopment and conservation policies and the formulation of sound and consistent regional plans and planning criteria;

f. Since the overwhelming majority of New Jersey land use planning and development review occurs at the local level, it is important to provide local governments in this State with the technical resources and guidance necessary to assist them in developing land use plans and procedures which are based on sound planning information and practice, and to facilitate the development of local plans which are consistent with State plans and programs;

g. An increasing concentration of the poor and minorities in older urban areas jeopardizes the future well-being of this State, and a sound and comprehensive planning process will facilitate the

provision of equal social and economic opportunity so that all of New Jersey's citizens can benefit from growth, development and redevelopment;

h. An adequate response to judicial mandates respecting housing for low- and moderate-income persons requires sound planning to prevent sprawl and to promote suitable use of land; and

i. These purposes can be best achieved through the establishment of a State planning commission consisting of representatives from the executive and legislative branches of State government, local government, the general public and the planning community.

C. 52:18A-197 State Planning Commission.

2. (New section) There is established in the Department of the Treasury a State Planning Commission, to consist of 17 members to be appointed as follows:

a. The State Treasurer and four other cabinet members to be appointed by and serve at the pleasure of the Governor. Each cabinet member serving on the commission may be represented by an official designee, whose name shall be filed with the commission. All other members of the cabinet, or their designees, shall be entitled to receive notice of and attend meetings of the commission and, upon request, receive all official documents of the commission;

b. Two other members of the executive branch of State government to be appointed by and serve at the pleasure of the Governor;

c. Four persons, not more than two of whom shall be members of the same political party, who shall represent municipal and county governments, and at least one of whom shall represent the interest of urban areas, to be appointed by the Governor with the advice and consent of the Senate for terms of four years and until their respective successors are appointed and qualified, except that the first four appointments shall be for terms of one, two, three and four years, respectively. In making these appointments, the Governor shall give consideration to the recommendations of the New Jersey League of Municipalities, the New Jersey Conference of Mayors, the New Jersey Association of Counties, and the New Jersey Federation of Planning Officials;

d. Six public members, not more than three of whom shall be of the same political party, and of whom at least one shall be a professional planner, to be appointed by the Governor with the advice and consent of the Senate for terms of four years and until their respective successors are appointed and qualified, except that of

the first six appointments, one shall be for a term of one year, one for a term of two years, two for a term of three years and two for a term of four years.

Vacancies in the membership of the commission shall be filled for the unexpired terms only in the same manner as the original appointments were made. Members shall receive no compensation for their services but shall be entitled to reimbursement for expenses incurred in the performance of their official duties.

Members of the commission shall be subject to the provisions of the "New Jersey Conflicts of Interest Law," P. L. 1971, c. 182 (C. 52:13D-12 et seq.).

C. 52:18A-198 Organizational meeting.

3. (New section) The commission shall meet for the purpose of organization as soon as may be practicable after the appointment of its members. The Governor shall select a chairman, who shall serve at the pleasure of the Governor, from among the public members and the members of the commission shall annually select a vice-chairman from among the representatives of the public or municipal or county governments. Nine members of the commission shall constitute a quorum and no matter requiring action by the full commission shall be undertaken except upon the affirmative vote of not less than nine members. The commission shall meet at the call of its chairman or upon the written request of at least nine members.

C. 52:18A-199 Duties of commission.

4. (New section) The commission shall:

a. Prepare and adopt within 18 months after the enactment of this act, and revise and readopt at least every three years thereafter, the State Development and Redevelopment Plan, which shall provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions and which shall identify areas for growth, agriculture, open space conservation and other appropriate designations;

b. Prepare and adopt as part of the plan a long-term Infrastructure Needs Assessment, which shall provide information on present and prospective conditions, needs and costs with regard to State, county and municipal capital facilities, including water, sewerage, transportation, solid waste, drainage, flood protection, shore protection and related capital facilities;

c. Develop and promote procedures to facilitate cooperation and coordination among State agencies and local governments with

regard to the development of plans, programs and policies which affect land use, environmental, capital and economic development issues;

d. Provide technical assistance to local governments in order to encourage the use of the most effective and efficient planning and development review data, tools and procedures;

e. Periodically review State and local government planning procedures and relationships and recommend to the Governor and the Legislature administrative or legislative action to promote a more efficient and effective planning process;

f. Review any bill introduced in either house of the Legislature which appropriates funds for a capital project and may study the necessity, desirability and relative priority of the appropriation by reference to the State Development and Redevelopment Plan, and may make recommendations to the Legislature and to the Governor concerning the bill; and

g. Take all actions necessary and proper to carry out the provisions of this act.

C. 52:18A-200 State Development and Redevelopment Plan.

5. (New section) The State Development and Redevelopment Plan shall be designed to represent a balance of development and conservation objectives best suited to meet the needs of the State. The plan shall:

a. Protect the natural resources and qualities of the State, including, but not limited to, agricultural development areas, fresh and saltwater wetlands, flood plains, stream corridors, aquifer recharge areas, steep slopes, areas of unique flora and fauna, and areas with scenic, historic, cultural and recreational values;

b. Promote development and redevelopment in a manner consistent with sound planning and where infrastructure can be provided at private expense or with reasonable expenditures of public funds. This should not be construed to give preferential treatment to new construction;

c. Consider input from State, county and municipal entities concerning their land use, environmental, capital and economic development plans, including to the extent practicable any State plans concerning natural resources or infrastructure elements;

d. Identify areas for growth, limited growth, agriculture, open space conservation and other appropriate designations that the commission may deem necessary;

e. Incorporate a reference guide of technical planning standards and guidelines used in the preparation of the plan; and

f. Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.

C. 52:18A-201 Office of State Planning.

6. a. (New section) There is established in the Department of the Treasury the Office of State Planning. The director of the office shall be appointed by and serve at the pleasure of the Governor. The director shall supervise and direct the activities of the office and shall serve as the secretary and principal executive officer of the State Planning Commission.

b. The Office of State Planning shall assist the commission in the performance of its duties and shall:

(1) Publish an annual report on the status of the State Development and Redevelopment Plan which shall describe the progress towards achieving the goals of the plan, the degree of consistency achieved among municipal, county and State plans, the capital needs of the State, and progress towards providing housing where such need is indicated;

(2) Provide planning service to other agencies or instrumentalities of State government, review the plans prepared by them, and coordinate planning to avoid or mitigate conflicts between plans;

(3) Provide advice and assistance to county and local planning units;

(4) Review and comment on the plans of interstate agencies where the plans affect this State;

(5) Compile quantitative current estimates and Statewide forecasts for population, employment, housing and land needs for development and redevelopment; and

(6) Prepare and submit to the State Planning Commission, as an aid in the preparation of the State Development and Redevelopment Plan, alternate growth and development strategies which are likely to produce favorable economic, environmental and social results.

c. The director shall ensure that the responsibilities and duties of the commission are fulfilled, and shall represent the commission and promote its activities before government agencies, public and

private interest groups and the general public, and shall undertake or direct such other activities as the commission shall direct or as may be necessary to carry out the purposes of this act.

d. With the consent of the commission, the director shall assign to the commission from the staff of the office at least two full-time planners, a full-time liaison to local and county governments, and such other staff, clerical, stenographic and expert assistance as he shall deem necessary for the fulfillment of the commission's responsibilities and duties.

C. 52:18A-202 Advice of other entities; plan cross-acceptance.

7. a. (New section) In preparing, maintaining and revising the State Development and Redevelopment Plan, the commission shall solicit and give due consideration to the plans, comments and advice of each county and municipality, State agencies designated by the commission and other local and regional entities. Prior to the adoption of each plan, the commission shall prepare and distribute a preliminary plan to each county planning board, municipal planning board and other requesting parties, including State agencies and metropolitan planning organizations. Not less than 45 nor more than 90 days thereafter, the commission shall conduct a joint public informational meeting with each county planning board in each county for the purpose of providing information on the plan, responding to inquiries concerning the plan, and receiving informal comments and recommendations from county and municipal planning boards, local public officials and other interested parties.

b. The commission shall negotiate plan cross-acceptance with each county planning board, which shall solicit and receive any findings, recommendations and objections concerning the plan from local planning bodies. Each county planning board shall negotiate plan cross-acceptance among the local planning bodies within the county, unless it shall notify the commission in writing within 45 days of the receipt of the preliminary plan that it waives this responsibility, in which case the commission shall designate an appropriate entity, or itself, to assume this responsibility. Each board or designated entity shall, within six months of receipt of the preliminary plan, file with the commission a formal report of findings, recommendations and objections concerning the plan, including a description of the degree of consistency and any remaining inconsistency between the preliminary plan and county and municipal plans. In any event, should any municipality's plan remain incon-

sistent with the State Development and Redevelopment Plan after the completion of the cross-acceptance process, the municipality may file its own report with the State Planning Commission, notwithstanding the fact that the county planning board has filed its report with the State Planning Commission. The term cross-acceptance means a process of comparison of planning policies among governmental levels with the purpose of attaining compatibility between local, county and State plans. The process is designed to result in a written statement specifying areas of agreement or disagreement and areas requiring modification by parties to the cross-acceptance.

c. Upon consideration of the formal reports of the county planning boards, the commission shall prepare and distribute a final plan to county and municipal planning boards and other interested parties. The commission shall conduct not less than six public hearings in different locations throughout the State for the purpose of receiving comments on the final plan. The commission shall give at least 30 days' public notice of each hearing in advertisements in at least two newspapers which circulate in the area served by the hearing and at least 30 days' notice to the governing body and planning board of each county and municipality in the area served by the hearing.

d. Taking full account of the testimony presented at the public hearings, the commission shall make revisions in the plan as it deems necessary and appropriate and adopt the final plan by a majority vote of its authorized membership no later than 60 days after the final public hearing.

C. 52:18A-203 Rules, regulations.

8. (New section) The commission shall adopt rules and regulations to carry out its purposes, including procedures to facilitate the solicitation and receipt of comments in the preparation of the preliminary and final plan and to ensure a process for comparison of the plan with county and municipal master plans, and procedures for coordinating the information collection, storage and retrieval activities of the various State agencies.

C. 52:18A-204 Assistance of personnel of other agencies.

9. (New section) The commission shall be entitled to call to its assistance any personnel of any State agency or county, municipality or political subdivision thereof as it may require in order to perform its duties. The officers and personnel of any State agency or county, municipality or political subdivision thereof and any other person may serve at the request of the commission upon any

advisory committee as the commission may create without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

C. 52:18A-205 Provision of data by other agencies.

10. (New section) Each State agency or county, municipality or political subdivision thereof shall make available to the commission any studies, surveys, plans, data and other materials or information concerning the capital, land use, environmental, transportation, economic development and human services plans and programs of the agency, county, municipality or political subdivision.

C. 52:18A-206 Other plans, regulations unaffected.

11. (New section) Nothing in this act shall be construed to affect the plans and regulations of the Pinelands Commission pursuant to the "Pinelands Protection Act" (P. L. 1979, c. 111), the Hackensack Meadowlands Development Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act" (P. L. 1968, c. 404), or the Department of Environmental Protection pursuant to the "Coastal Area Facility Review Act" (P. L. 1973, c. 185). The State Planning Commission shall rely on the adopted plans and regulations of these entities in developing the State Development and Redevelopment Plan.

C. 52:18A-207 Short title.

12. (New section) Sections 1 through 12 of this act shall be known and may be cited as the "State Planning Act."

13. Section 3 of P. L. 1975, c. 208 (C. 52:9S-3) is amended to read as follows:

C. 52:9S-3 State Capital Improvement Plan.

3. a. The commission shall each year prepare a State Capital Improvement Plan containing its proposals for State spending for capital projects, which shall be consistent with the goals and provisions of the State Development and Redevelopment Plan adopted by the State Planning Commission. Copies of the plan shall be submitted to the Governor and the Legislature no later than December 1 of each year. The plan shall provide:

(1) A detailed list of all capital projects of the State which the commission recommends be undertaken or continued by any State agency in the next three fiscal years, together with information as to the effect of such capital projects on future operating expenses of the State, and with recommendations as to the priority of such capital projects and the means of funding them;

(2) The forecasts of the commission as to the requirements for capital projects of State agencies for the four fiscal years next following such three fiscal years and for such additional periods, if any, as may be necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects;

(3) A schedule for the next fiscal year of recommended appropriations of bond funds from issues of bonds previously authorized;

(4) A review of capital projects which have recently been implemented or completed or are in process of implementation or completion;

(5) Recommendations as to the maintenance of physical properties and equipment of State agencies;

(6) Recommendations which the commission deems appropriate as to the use of properties reported in subsection b. (6) of this section; and

(7) Such other information as the commission deems relevant to the foregoing matters.

b. Each State agency shall no later than August 15 of each year provide the commission with:

(1) A detailed list of capital projects which each State agency seeks to undertake or continue for its purposes in the next three fiscal years, together with information as to the effect of such capital projects on future operating expenses of the State, and with such relevant supporting data as the commission requests;

(2) Forecasts as to the requirements for capital projects of such agency for the four fiscal years next following such four fiscal years and for such additional periods, if any, as may be necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects;

(3) A schedule for the next fiscal year of requested appropriations of bond funds from issues of bonds previously authorized;

(4) A report on capital projects which have recently been implemented or completed or are in process of implementation or completion;

(5) A report as to the maintenance of its physical properties and capital equipment;

(6) Such other information as the commission may request.

c. Each State agency shall, when requested, provide the commission with supplemental information in addition to that to be

available to the commission under the computerized record keeping of the Department of the Treasury, Bureau of Real Property Management, concerning any real property owned or leased by the agency including its current or future availability for other State uses.

d. A copy of the plan shall also be forwarded to the Division of Budget and Accounting each year upon its completion, and the portion of the plan relating to the first fiscal year thereof shall, to the extent it treats of capital appropriations in the annual budget, constitute the recommendations of the commission with respect to such capital appropriations in the budget for the next fiscal year.

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

C. 40:55D-4 Definitions.

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.

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

“Historic site” means any building, structure, area or property that is significant in the history, architecture, archeology or culture of this State, its communities or the nation and has been so designated pursuant to this act.

“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.

“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.

15. Section 7.1 of P. L. 1975, c. 291 (C. 40:55D-12) is amended to read as follows:

C. 40:55D-12 Notice of applications.

7.1. Notice of applications. Notice pursuant to subsections a., b., d., e., f. and g. 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. and g. 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 this act, (2) minor subdivisions pursuant to section 35 of this act or (3) final approval pursuant to section 38 of this act; 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 this act 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. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner 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. 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.

i. Notice pursuant to subsections d., e., f. and g. 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.

16. 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, where appropriate, the following elements:

(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 the other master plan elements 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; (c) showing the existing and proposed location of any airports and the boundaries of any airport hazard areas delineated pursuant to the "Air Safety and Hazardous 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, 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;

(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;

(6) A community facilities plan element showing the 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, open space, water, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, wildlife and other natural resources;

(9) An energy conservation plan element which systematically analyzes the impact of each other component and element of the master plan on the present and future use of energy in the municipality, details specific measures contained in the other plan elements designed to reduce energy consumption, and proposes other measures that the municipality may take to reduce energy consumption and to provide for the maximum utilization of renewable energy sources; and

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

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 and (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.).

17. There is appropriated from the General Fund to the Department of the Treasury the sum of \$750,000.00 to effectuate the purposes of this act.

Repealer.

18. Sections 1, 13, 14, 15 and 16 of P. L. 1961, c. 47 (C. 13:1B-5.1 and C. 13:1B-15.50 through C. 13:1B-15.53) and sections 26 and 27 of P. L. 1966, c. 293 (C. 52:27D-26 and C. 52:27D-27) are repealed.

19. This act shall take effect immediately but shall remain inoperative until the "Fair Housing Act," P. L. 1985, c. 222 (C. 52:27D-301 et al.) becomes operative.

Approved January 2, 1986.

CHAPTER 399

AN ACT to amend the charter of the town of Hammonton in the county of Atlantic.

WHEREAS, The town of Hammonton in the county of Atlantic has petitioned the Legislature for the passage of a special law to provide an amendment to the charter for the town, pursuant to Article IV, section VII, paragraph 10 of the Constitution of 1947, in accordance with the procedure prescribed by the laws of 1948, chapter 199 (C. 1:6-10 et seq.); now, therefore,

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

1. Section 2 of P. L. 1866, c. 85 is amended to read as follows:

2. That the officers of said town shall consist of six councilmen, a town clerk, a collector of taxes, a superintendent of schools, one overseer of the streets and highways, one treasurer, one or more constables, one justice of the peace, and one overseer of the poor. Councilmen shall serve three years, but on the first election, three councilmen shall be elected to serve two years, and three for the term of one year, and on the following annual town meetings thereafter, there shall be elected three councilmen to serve in their offices for the term of two years each. Appointed officers shall serve for such term as is provided by ordinance unless a specific term is provided by general law. The overseer of the streets and highways shall be appointed by the town council, and shall continue to hold office during good behavior and efficiency, and shall not be removed therefrom except for just cause and then only after a public hearing upon a written complaint setting forth the charges.

2. This act shall take effect upon the enactment of an ordinance of the town of Hammonton adopting its provisions. The overseer of the streets and highways shall continue as an elected officer until the expiration of the term to which he was elected prior to the adoption of this act of the town of Hammonton.

Approved January 6, 1986.

CHAPTER 400

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, 1986 and regulating the disbursement thereof,” approved June 28, 1985 (P. L. 1985, c. 209).

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. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
62 DEPARTMENT OF LABOR	
50 Economic Planning, Development and Security	
54 Manpower and Employment Services	
07-4535 Vocational Rehabilitation Services	\$75,000
Special Purpose:	
Governor’s Task Force on Services to Disabled Persons	\$75,000

2. This act shall take effect immediately.

Approved January 6, 1986.

CHAPTER 401

AN ACT concerning the disposal of pets and regulating pet cemeteries, and supplementing Titles 4 and 54 of the Revised Statutes.

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

C. 4:22A-1 Definitions.

1. As used in this act:

C. 4:22A-6 Subsequent liens subordinate.

6. All mortgages and other liens of any nature, hereafter contracted, placed, or incurred upon property which has been, and was at the time of the creation or placing of the lien, dedicated as a pet cemetery, or upon property which is afterwards, with the consent of the owner of any mortgage or lien, dedicated to pet cemetery purposes, shall not affect or defeat the dedication to pet cemetery purposes, but the mortgage or other lien is subject and subordinate to that dedication and any sales made upon foreclosure are subject and subordinate to the dedication for pet cemetery purposes.

C. 4:22A-7 Maintenance fees.

7. The owner or operator of a pet cemetery shall charge a person seeking to dispose of a pet, at the option of the customer, either an annual or permanent maintenance fee for the care of the pet cemetery, as follows:

a. The annual maintenance fee, billed each calendar year not later than July 1 and due not later than August 15, shall be placed by the owner or operator of the pet cemetery in the general account of the pet cemetery to be used for pet cemetery maintenance during the forthcoming year; or

b. The one-time permanent maintenance fee of at least \$25.00 shall be placed by the owner or operator of the pet cemetery into an endowment care or similar trust fund, the entirety of which shall be used for the perpetual maintenance of the pet cemetery.

A pet owner who initially selects the annual maintenance fee may transfer to perpetual maintenance at any time by paying to the pet cemetery an amount equal to the permanent maintenance fee applicable on the date of the transfer.

If the annual maintenance fee is not paid within 90 days of the date on which it is due, the owner or operator of the pet cemetery shall send written notice by certified mail to the pet owner that the annual maintenance fee is overdue. If, within 90 days of the mailing of that certified letter, the annual maintenance fee is not paid, the pet owner shall lose all disposal rights at the pet cemetery, notwithstanding any provision to the contrary in section 5 of this act.

C. 4:22A-8 \$12,000 minimum in trust fund.

8. A pet cemetery which commences operations on or after the effective date of this act shall, prior to the acceptance of any moneys for services rendered, establish an endowment care or similar trust fund for the permanent maintenance of the pet ceme-

tery, in an amount not less than \$12,000.00 in cash or in the bonds of the United States, this State, or any political subdivision of this State. Not less than \$12,000.00 shall be maintained in this account at all times during the period of the operation of the pet cemetery.

C. 54:4-3.138 Tax exemption.

9. A pet cemetery which is dedicated to pet cemetery purposes pursuant to the provisions of section 3 of this act and which is organized as a nonprofit corporation pursuant to Title 15A of the New Jersey Statutes is exempt from taxation as real property under chapter 4 of Title 54 of the Revised Statutes, for as long as the dedication remains in effect. This exemption shall apply to land, disposal sites, structures, facilities and buildings which are the subjects of the dedication and are used for pet cemetery purposes.

C. 4:22A-9 Pet disposal form.

10. Each person who gives a pet to a veterinarian or a pet cemetery for disposal purposes shall choose a method of disposal for the pet by completing a pet disposal form prescribed by the department under section 14 of this act. This form shall list alternative methods of disposal, the cost of each method and the nature of or place in which each method of disposal will be carried out. The veterinarian or the pet cemetery, as the case may be, shall give the person who completes the form a copy of the form. If the person chooses to have the pet disposed of by a pet cemetery and makes the arrangements therefor through a veterinarian, the veterinarian shall provide the person with the name, location and telephone number of the pet cemetery so that the person may obtain information about the pet cemetery pursuant to section 4 of this act. The veterinarian also shall ensure that a copy of the pet disposal form accompanies the pet when the pet is removed from the veterinarian's office.

C. 4:22A-10 Compliance with instructions.

11. a. A pet cemetery shall dispose of a pet, received thereby for disposal purposes, in compliance with the instructions on the pet disposal form accompanying the pet and the health standards adopted by the department under section 14 of this act.

b. The owner or operator of a pet cemetery shall, within 10 days of receipt of a pet for disposal, send a written certification to the person who offered the pet for disposal, attesting to the method, date and place of the disposal.

c. A pet cemetery which contains a grave containing more than five pets is presumed to have disposed of pets in violation of this act.

C. 4:22A-11 Registration.

12. a. Every pet cemetery and disposal facility in this State shall register with the department on a form prescribed by the department. The department may charge a fee, not to exceed \$10.00, for the registration. Pet cemeteries and disposal facilities in operation before the effective date of this act shall have 120 days to comply with this section. Pet cemeteries and disposal facilities which commence operations on or after the effective date of this act shall register with the department at least 30 days prior to the commencement of operations.

b. The department shall periodically conduct an inspection and a financial audit of the accounts required pursuant to this act of each pet cemetery registered pursuant to this act.

C. 4:22A-12 Violation; penalty.

13. Any person who violates the provisions of this act, or any rules or regulations adopted hereunder, is liable to a civil penalty of not less than \$500.00 nor more than \$1,000.00 for each offense, to be collected in a summary proceeding under "the penalty enforcement law," N. J. S. 2A:58-1 et seq. The Superior Court has jurisdiction to enforce that act. If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. The proceedings shall be brought in the name of the department. The department shall have the authority to compromise and settle any claim for a penalty in such amount as the department determines is appropriate and equitable under the circumstances.

C. 4:22A-13 Forms; rules, regulations.

14. The department, after consultation with the Departments of Agriculture and Environmental Protection, shall adopt the forms, rules and regulations, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), necessary to carry out the provisions of this act, including, but not limited to, the following:

- a. Pet cemetery disclosure forms required under section 4 of this act;
- b. Pet disposal forms required under section 10 of this act;
- c. Health standards for pet cemeteries required under section 11 of this act;

d. Registration forms for pet cemeteries required under section 12 of this act; and

e. A public information program to assist members of the general public in understanding the provisions of this act.

15. This act shall take effect on the 30th day after enactment, except for section 14, which shall take effect immediately.

Approved January 8, 1986.

CHAPTER 402

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

94 INTER-DEPARTMENTAL ACCOUNTS

70 Government Direction, Management and Control

74 General Government Services

9430 Salary and Other Benefits

05-9430	Salary and Other Benefits	\$7,000,000
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Special Purpose:

Implementation of the recommen-	
dations of the Task Force on	
Equitable Compensation	(\$7,000,000)

The Director of the Division of Budget and Accounting shall allocate the amount hereinabove appropriated as he shall determine after consultation with the President of the Civil Service Commission, but such allocation shall be done in accordance with the recommendations contained in the Interim Report of the Task Force on Equitable Compensation, dated June 1, 1985.

2. This act shall take effect immediately and be retroactive to July 1, 1985.

Approved January 8, 1986.

CHAPTER 403

AN ACT concerning potentially catastrophic discharges of hazardous substances into the environment, supplementing 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*:

C. 13:1K-19 Short title.

1. This act shall be known and may be cited as the "Toxic Catastrophe Prevention Act."

C. 13:1K-20 Findings, declarations.

2. The Legislature finds and declares that a number and variety of industrial facilities and related operations generate, store, handle, and transport extremely hazardous substances; that some of those operations may represent a catastrophic threat to public health and safety, especially in a densely populated state; that, in recent months, the catastrophically tragic event in Bhopal, India, as well as a score of accidental chemical releases into the atmosphere of the State demonstrate that modern technology, operations systems, and safeguards can fail in protecting against such threats to the public; that while a strengthened capacity to minimize and abate discharges once they occur and efficient plans to evacuate populations if those discharges cannot be contained are vital components of a comprehensive public protection program, the single most effective effort to be made is toward prevention of those environmental accidents by anticipating the circumstances that could result in their occurrence and taking those precautionary and preemptive actions required.

C. 13:1K-21 Definitions.

3. As used in this act:

a. "Extraordinarily hazardous accident risk" means a potential for release of an extraordinarily hazardous substance into the environment, which could produce a significant likelihood that persons exposed may suffer acute health effects resulting in death or permanent disability;

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

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

d. "Extraordinarily Hazardous Substance Accident Risk Assessment" or "EHSARA" means a review and safety evaluation of those operations in a facility which involve the generation, storage, or handling of an extraordinarily hazardous substance, as provided in section 6 of this act;

e. "Extraordinarily Hazardous Substance" means any substance or chemical compound used, manufactured, stored, or capable of being produced from on-site components in this State in sufficient quantities at a single site such that its release into the environment would produce a significant likelihood that persons exposed will suffer acute health effects resulting in death or permanent disability;

f. "Extraordinarily Hazardous Substance List" means the substances or chemical compounds identified in subsection a. of section 4 of this act and adopted by regulation pursuant to subsection e. of that section;

g. "Extraordinarily Hazardous Substance Risk Reduction Work Plan" or "work plan" means the document developed by the department for each facility at which is generated, stored, or handled an extraordinarily hazardous substance, setting forth the scope and detail of the EHSARA to which the facility will be submitted, as provided in section 6 of this act;

h. "Facility" means a building, equipment, and contiguous area. Facility shall not include a research and development laboratory, which means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which extraordinarily hazardous substances are used by or under the supervision of a technically qualified person;

i. "Risk management program" means the sum total of programs for the purpose of minimizing extraordinarily hazardous accident risks, including, but not limited to, requirements for safety review of design for new and existing equipment, requirements for standard operating procedures, requirements for preventive maintenance programs, requirements for operator training and accident investigation procedures, requirements for risk assessment for specific pieces of equipment or operating alternatives, requirements for emergency response planning, and internal or external audit procedures to ensure programs are being executed as planned.

C. 13:1K-22 Extraordinarily hazardous substance list.

4. a. The following chemicals or chemical compounds, in the quantities indicated, shall constitute the initial extraordinarily

hazardous substance list: hydrogen chloride (HCL) and allyl chloride in quantities of 2,000 pounds or more; hydrogen cyanide (HCN), hydrogen fluoride (HF), chlorine (Cl₂), phosphorus trichloride, and hydrogen sulfide (H₂S) in quantities of 500 pounds or more; and phosgene, bromine, methyl isocyanate (MIC), and toluene-2, 4-diisocyanate (TDS) in quantities of 100 pounds or more.

b. Within 60 days of the effective date of this act, the department shall develop and issue a registration form to be completed within 120 days of the effective date of this act, by the owner or operator of each facility in the State which at any time generates, stores, or handles any of the extraordinarily hazardous substances on the initial extraordinarily hazardous substance list, pursuant to subsection a. of this section. The registration form shall provide, in addition to any other information that may be required by the department, the following: an inventory of the extraordinarily hazardous substance or substances generated, stored, or handled at the facility and the quantity or quantities thereof, which inventory shall identify whether those substances are end products, intermediate products, by-products, or waste products; a general description of the processes and principal equipment involved in the management of the substance or substances; a profile of the area in which the facility is situated, including its proximity to population and water supplies; the extent to which the risks and hazards of the processes, equipment, and operations have been identified, evaluated, and abated, and the expertise and affiliation of the evaluators and any direct or indirect relationship between the evaluators and the owner or operator of the facility; and the name or names of all insurance carriers underwriting the facility's environmental liability and workers' compensation insurance policies and the scope of these policies, including any limitations and exclusions.

c. Within 18 months of the effective date of this act, the Department of Environmental Protection, in consultation with the Department of Health, shall develop and, after public hearing, adopt as a regulation, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), an extraordinarily hazardous substance list. The list shall correlate the substances or compounds with the quantities thereof required to produce the potentially catastrophic circumstance. The department shall have the power to amend, by regulation, the extraordinarily hazardous substance list to accommodate new chemical compounds that may be

developed or reflect new information or scientific data that may become available to the department.

d. Within 90 days of the adoption by the department of an extraordinarily hazardous substance list pursuant to subsection c. of this section, the owner or operator of each facility in the State which generates, stores, or handles any of the extraordinarily hazardous substances on the extraordinarily hazardous substance list, not registered pursuant to subsection b. of this section, shall complete the registration form developed and issued by the department.

C. 13:1K-23 Risk management program.

5. a. If the owner or operator of a facility that submitted a registration form pursuant to section 4 of this act has established a risk management program, the department shall provide for the submission and review of the risk management program before requiring the owner or operator to take any other action regarding the facility and program pursuant to this act. If the department finds the risk management program has any material deficiencies or omissions that could reduce the effectiveness of the risk management program, it shall recommend to the owner or operator risk management program changes or additions. No later than 60 days after the recommendation, the owner or operator shall submit to the department any action the owner or operator proposes in order to correct the deficiencies or omissions. The owner's or operator's proposals may be in accordance with the changes and additions recommended by the department or in accordance with alternative changes, additions or proposals recommended by the owner or operator.

b. If the owner or operator and the department agree on the measures necessary to correct the deficiencies or omissions in the risk management program, the parties may enter into a consent agreement.

c. If the parties cannot reach agreement, the commissioner, after notice and hearing and written findings of fact, may issue an administrative order requiring changes or additions to correct the deficiencies. Information available on the cost-effectiveness, extraordinarily hazardous accident risk reduction effectiveness and technical feasibility of any changes or additions that the department or owner or operator recommends shall be considered by the department and the commissioner in making any decision. Such an order shall follow administrative hearing procedures, which are subject to judicial review as necessary. This hearing procedure

shall, to the maximum extent practicable and feasible, be accorded priority status.

C. 13:1K-24 Risk reduction work plan.

6. Upon review of all registrations and accompanying materials submitted pursuant to this section, the department shall, in cooperation with the facility owner or operator, develop an Extraordinarily Hazardous Substance Risk Reduction Work Plan for each registered facility without a risk management program agreed upon by the facility owner and the department or subject to a consent agreement or administrative order entered into pursuant to section 5 of this act. The work plan shall constitute the basis for any Extraordinarily Hazardous Substance Accident Risk Assessment required of that facility, to be performed pursuant to this section. The work plan shall require the reporting of the identity and quantity of all extraordinarily hazardous substances generated, stored, handled, or that could unwittingly be produced in the event of an equipment breakdown, human error, design defect, or procedural failure, or the imposition of an external force; the nature, age, and condition of all the equipment and instruments involved in the handling and management of the extraordinarily hazardous substance or substances at the facility, and the schedules for their testing and maintenance; the measures and precautions designed to protect against the intrusions of external forces and events, or to control or contain discharges within the facility; the circumstances that would have to obtain in order for there to result a discharge of an extraordinarily hazardous substance, and the practices, procedures, and equipment designed to forestall such an event; any alternative processes, procedures, or equipment which might reduce the risk of a release of an extraordinarily hazardous substance while yielding the same or commensurate results, and the specific reasons they are not employed; any training or management practices in place which impart knowledge to relevant personnel regarding the dangers posed by a release of an extraordinarily hazardous substance and the training provided to prepare them for the safe operation of the facility and for unanticipated occurrences; any other preventive maintenance measure or on-site emergency response capability or other internal mechanism developed to safeguard against the occurrence of an accidental release of an extraordinarily hazardous substance or any other aspect or component of the facility deemed relevant by the department. The department may, by regulation or on a case-by-case

basis, limit the scope or detail of the work plan and the priority or frequency of review of any facility or facility operation or component thereof where it determines, in writing, that the action does not remove or compromise the protection required for the public interest, and enables the department to allocate its resources more efficiently and effectively.

C. 13:1K-25 Accident risk assessment.

7. The owner or operator of every facility registered with the department pursuant to section 4 of this act shall submit those operations in the facility concerned with the generation, storage, handling or safeguarding of any extraordinarily hazardous substance to an Extraordinarily Hazardous Substance Accident Risk Assessment, except as provided for in section 5 with respect to facilities with an established risk management program. The EHSARA shall be conducted in conformity with the work plan for the facility developed by the department pursuant to section 6 of this act by an independent consultant selected by the department from a list of three candidates submitted by the owner of the subject facility or, at the option of the department, by the department or by an independent consultant contracted for directly by the department; except that the department, with respect to the former option, may request the owner of the subject facility to provide three additional candidate consultants if it finds all three originally submitted by the facility owner unacceptable.

The owner of the subject facility shall be assessed a fee established in accordance with a schedule, established as a regulation by the department, which reflects all the costs of the risk assessment of that facility conducted by, or on behalf of, the department.

C. 13:1K-26 Risk reduction plan; review, hearing.

8. a. Upon review of the Extraordinarily Hazardous Substance Accident Risk Assessment for each facility, the department shall, if appropriate, order the owner or operator of the facility to undertake an extraordinarily hazardous substance risk reduction plan. The order shall identify the risk or risks which must, within the limits of practicability and feasibility, be abated and a reasonable timetable for implementation of the plan. The department shall, by regulation, establish criteria or quantitative standards for determining risk, which criteria and standards shall reflect, among other factors, the size of the potentially exposed population and the gravity of consequences. The commissioner may order those operations posing the identified risk or risks that have not been

abated on schedule to cease until the risk reduction plan has been implemented.

b. The owner of a facility who is aggrieved by an order issued pursuant to subsection a. of this section may petition the commissioner for a review of the matter, pursuant to which he shall provide the commissioner with all data and documents which he believes demonstrate that the order is unwarranted. If the commissioner, after review, affirms the initial order, he shall, at the request of the aggrieved owner, transmit all relevant materials and documents on the matter to the Office of Administrative Law, which shall conduct a hearing on the order pursuant to the provisions of P. L. 1978, c. 67 (C. 52:14F-1 et seq.). This hearing shall be an adjudicatory proceeding, and shall be conducted as a contested case pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.). The department and the aggrieved owner of the facility shall be deemed parties in interest in the proceeding. Intervention in this hearing by any other person shall be as provided in the "Administrative Procedure Act." After review of the record of the adjudicatory proceeding and the recommendation of the administrative law judge, the commissioner shall affirm or modify his order. The decision of the commissioner shall constitute final agency action on the matter, and shall be subject only to judicial review as provided in the Rules of Court. During the pendency of the review and the hearing, the timetable for compliance with the order giving rise to the proceeding shall be suspended.

C. 13:1K-27 Right of entry; recordkeeping.

9. a. The department has the right to enter any facility at any time in order to verify compliance with the provisions of this act and the quality of all work performed pursuant to this act, except that facility owners or operators shall be under no obligation to employ any personnel solely to assure access to the facility by the department when this access would otherwise be impossible.

b. The department shall develop and establish, pursuant to regulation, and enforce a system of recordkeeping, which system shall require the owner or operator of each facility registered pursuant to section 4 of this act to report to the department on all risk assessment and risk reduction efforts undertaken pursuant to this act, all ongoing maintenance measures taken, all unanticipated and unusual events, and any other information the department deems appropriate, and which shall be so designed as to prevent

the destruction or alteration of information and data contained in those records.

These regulations shall also establish strict penalties, or other sanctions, to be assessed against any party guilty of destroying or tampering with any records required to be kept pursuant to this act.

C. 13:1K-28 Insurance information release.

10. a. The department may institute an administrative procedure to determine whether an owner of a facility which generates, stores, or handles any extraordinarily hazardous substances should be required to authorize the insurance carrier or carriers which underwrite environmental liability or workers' compensation insurance for that facility to release to the department information relevant to the risks posed by the facility's management of the substance or substances. If so authorized, the insurance carrier or carriers shall release the information within the period of time established by the department, but in no case less than two weeks.

b. An insurance carrier or its representative shall not be held liable in a civil proceeding for any statement made or action taken voluntarily or in response to an authorization or request from the client facility pursuant to this section unless actual malice on the part of the insurer or its representative is present. This immunity shall extend to protect an insurance carrier or its representative from being held liable to any party who sustains any loss or injury as a direct or consequential result of the carrier's or its representative's compliance, noncompliance, or attempt to comply with this act.

c. The department is authorized to disclose information obtained from an insurance carrier or its representative pursuant to this section only to its own employees or agents to assist in enforcing the provisions of this act, or for use in a civil or criminal proceeding, if so ordered by a court.

d. A person who, as required by this section, knowingly and willfully refuses to release information required under this act, or fails to hold information received under this act in confidence, is liable for a penalty not to exceed \$5,000.00, to be collected and enforced in a summary manner under "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). The proceedings may be brought by the department or by a person or an insurer injured by a failure to keep the information confidential. If a money judgment is rendered against the defendant, it shall be paid to the plaintiff.

A reasonable and good faith effort to comply with the provisions of this section shall be a defense to an alleged violation of this section.

C. 13:1K-29 Internal management of confidential information.

11. a. The department shall, pursuant to regulation, adopt principles, guidelines, and procedures governing the internal management of confidential information supplied to the department pursuant to this act. The regulations shall provide that information obtained pursuant to this act shall be disclosed only to its employees or agents to assist in enforcing the provisions of this act, or for use in a civil or criminal proceeding, if so ordered by a court, and shall include, but not be limited to requirements: (1) that all confidential information supplied pursuant to this act be labeled as such by the facility owner; (2) that receipt of such labeled information be acknowledged in writing by an authorized employee of the department; (3) that the department establish a review procedure by which only specifically designated personnel be authorized access to such information and then only on a "need-to-know" basis; and (4) that the department establish secure areas for the express purpose of storage of such confidential information.

b. The owner of a facility who alleges that certain information required to be disclosed pursuant to this act contains or relates to a trade secret or constitutes security information which, notwithstanding the management procedures for such information adopted by the department pursuant to subsection a. of this section, must be kept privileged so as not to competitively disadvantage the facility, or compromise the security of the facility or its operations, shall petition the commissioner for the right to withhold the information. Upon receipt of the petition, the commissioner shall review the matter. If the commissioner, in his discretion, denies the petition, he shall, at the request of the facility owner, transmit all relevant information to the Office of Administrative Law, which shall conduct a hearing on the claim pursuant to the provisions of P. L. 1978, c. 67 (C. 52:14F-1 et seq.). At the hearing, the petitioner shall have the burden to show that the trade secret or security risk claim is valid. This hearing shall be an adjudicatory proceeding, and shall be conducted as a contested case pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

C. 13:1K-30 Violations; penalties.

12. a. If any person violates any of the provisions of sections 4 through 8 of this act or any rule, regulation or order promulgated or issued pursuant thereto, the department may institute a civil

action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent this violation and the court may proceed in the action in a summary manner.

b. Any person who violates the provisions of sections 4 through 8 of this act or any rule, regulation or order promulgated pursuant thereto is liable to a civil administrative penalty of not more than \$10,000.00 for the first offense, not more than \$20,000.00 for the second offense, and up to \$50,000.00 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. No civil administrative penalty shall be levied except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalties to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon a 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 upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when 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 a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

c. The department is authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator.

d. Any person who violates any of the provisions of sections 4 through 8 of this act, or any rule, regulation, or order promulgated or issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section or a court order issued pursuant to subsection a. of this section or who fails to pay a civil administrative penalty in full pursuant to subsection b. of this

section is subject, upon order of the court, to a civil penalty not to exceed \$10,000.00 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce "the penalty enforcement law."

C. 13:1K-31 Fee schedule.

13. The department is authorized to charge and collect fees from facility owners registered pursuant to section 4 of this act, in accordance with a schedule adopted as a rule or regulation, which schedule shall reflect the costs to the department of reviewing individual facilities while enabling the department to continue to administer the program on a self-supporting basis.

C. 13:1K-32 Involvement of other entities.

14. The department shall make every effort to involve hazardous materials advisory councils, where they exist; local government officials, and other pertinent entities in explaining actions taken in regard to facilities in their areas. Local ordinances which are inconsistent with, in conflict with, or more restrictive than the provisions of this act must be approved by the department before adoption.

15. a. There is appropriated to the Department of Environmental Protection from the General Fund the sum of \$500,000.00 to carry out its responsibilities pursuant to this act.

b. It is the intent of the Legislature that, for the purpose of guaranteeing the continued effectiveness and continuity of the program herein established, an appropriation from the General Fund to the department shall be made annually in an amount required to cover administrative costs to the department in excess of those recovered from fees levied on registrants, or for unanticipated expenses or expanded responsibilities.

16. This act shall take effect immediately.

Approved January 8, 1986.

CHAPTER 404

AN ACT establishing an Office of Victim-Witness Advocacy and supplementing P. L. 1971, c. 317 (C. 52:4B-1 et seq.).

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

C. 52:4B-39 Victim, board defined.

1. As used in this act:

a. "Victim" means a person who suffers 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.

b. "Board" means the Violent Crimes Compensation Board in the Department of Law and Public Safety.

C. 52:4B-40 Office of Victim-Witness Assistance.

2. There is established under the jurisdiction of the Violent Crimes Compensation Board in the Department of Law and Public Safety an Office of Victim-Witness Assistance under the supervision of the Director of the Office of Victim-Witness Assistance.

C. 52:4B-41 Information program.

3. The Office of Victim-Witness Assistance shall develop and coordinate a Statewide victim-witness rights information program.

C. 52:4B-42 Components.

4. The victim-witness rights information program shall:

a. Provide victims or their representatives with information about the availability of social and medical services, especially emergency and social services available in the victim's immediate geographical area;

b. Provide victims or their representatives with information about possible compensation under the "Criminal Injuries Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B-1 et seq.) and of the sentencing court's authority to order restitution under chapter 43 of Title 2C of the New Jersey Statutes;

c. Provide victims or their representatives with information about how to contact the appropriate county office of victim-witness advocacy and the appropriate county prosecutor's office;

d. Provide a 24-hour toll-free hotline telephone number for victims and witnesses to call with inquiries concerning the information and services available pursuant to this act;

e. Provide victims and witnesses with a detailed description of the rights established under the Crime Victim's Bill of Rights created by P. L. 1985, c. 249 (C. 52:4B-34 et seq.);

f. Gather available information from victim assistance programs throughout the country and make that information available to the Office of Victim-Witness Advocacy, police agencies, hospitals, prosecutors' offices, the courts, and other agencies that provide assistance to victims of crimes; and

g. Sponsor conferences to bring together personnel working in the field of victim assistance and compensation to exchange methods and procedures for improving and expanding services to victims.

C. 52:4B-43 Office of Victim-Witness Advocacy.

5. There is established in the Division of Criminal Justice in the Department of Law and Public Safety an Office of Victim-Witness Advocacy under the supervision of the Chief of the Office of Victim-Witness Advocacy.

C. 52:4B-44 Mandatory services.

6. a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:

(1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;

(2) Notification of any change in the case status and of final disposition;

(3) Information on crime prevention and on available responses to witness intimidation;

(4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;

- (5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;
- (6) Advance notice of when presence in court is not needed;
- (7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;
- (8) A waiting or reception area separate from the defendant for use during court proceedings;
- (9) An escort or accompaniment for intimidated victims or witnesses during court appearances;
- (10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;
- (11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;
- (12) Assistance in making travel and lodging arrangements for out-of-State witnesses;
- (13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;
- (14) Notification of the case disposition, including the trial and sentencing;
- (15) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable; and
- (16) Expediting the return of property when no longer needed as evidence.

C. 52:4B-45 County victim-witness coordinators.

7. a. The Chief of the Office of the Victim-Witness Advocacy shall appoint a county victim-witness coordinator in each county.

b. A county victim-witness coordinator shall be responsible for the implementation of the victim-witness rights program in that county.

c. Each county prosecutor shall provide office space, when available, for the victim-witness coordinator of that county.

d. Each municipality may provide office space for these purposes at minimal or no cost.

C. 52:4B-46 Coordination with law enforcement agencies.

8. In providing the information and services mentioned above, the Office of Victim-Witness Advocacy shall coordinate its efforts with the various law enforcement agencies. These agencies are required by P. L. 1985, c. 249 (C. 52:4B-34 et seq.) to inform victims of the availability of this assistance.

C. 52:4B-47 Training.

9. a. The curriculum for police training courses required pursuant to P. L. 1961, c. 56 (C. 52:17B-66 et seq.) shall include training on responding to the needs of crime victims and on services available to provide assistance.

b. In-service training shall be made available for police officers, assistant prosecutors, county detectives and investigators on specialized needs of crime victims and available services.

C. 52:4B-48 Criminal Justice assistance.

10. The Division of Criminal Justice shall provide assistance to county prosecutors and law enforcement agencies in implementing the guidelines and training requirements of this act.

C. 52:4B-49 Annual reports.

11. a. The Chief of the Office of Victim-Witness Advocacy shall annually report to the Attorney General, through the Director of the Division of Criminal Justice in the Department of Law and Public Safety, on the services provided to victims and witnesses, as required by this act.

b. Each county prosecutor, as part of his annual report to the Attorney General pursuant to subsection b. of section 15 of P. L. 1970, c. 74 (C. 52:17B-111), shall report on the services provided to victims and witnesses, as required by this act.

12. This act shall take effect on the 90th day after enactment but any appointment and any action permitted or required by this act and necessary to implement this act as of such date may be made or undertaken any time following enactment.

Approved January 9, 1986.

CHAPTER 405

AN ACT concerning securities, to be known as the "Securities Law Reform and Protection Act of 1985," amending and supplementing P. L. 1967, c. 93, creating a study commission and making an appropriation therefor, and repealing P. L. 1963, c. 192.

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

1. Section 1 of P. L. 1967, c. 93 (C. 49:3-48) is amended to read as follows:

C. 49:3-48 1960 law superseded.

1. This act shall be construed as a revision of, and shall supersede all provisions of chapter 75 of the laws of 1960, known as the "Uniform Securities Law," including all amendments thereof.

2. Section 2 of P. L. 1967, c. 93 (C. 49:3-49) is amended to read as follows:

C. 49:3-49 Definitions.

2. When used in this act, unless the context otherwise requires:

(a) "Bureau" means the agency designated in section 19(a);

(b) "Agent" means any individual other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in (1) effecting transactions in a security exempted by subdivision (1), (2), (3), or (11) of section 3(a); (2) effecting transactions exempted by section 3(b); or (3) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this State. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition;

(c) "Broker-dealer" means any person engaged in the business of effecting or attempting to effect transactions in securities for the accounts of others or for his own account. "Broker-dealer"

does not include (1) an agent, (2) an issuer, (3) a person who effects transactions in this State exclusively in securities described in subdivisions (1) and (2) of section 3(a), (4) a bank, savings institution, or trust company, or (5) a person who (i) effects transactions in this State exclusively with or through (A) the issuers of the securities involved in the transactions, (B) other broker-dealers or (C) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of 12 consecutive months does not direct more than 15 offers to sell or to buy into this State in any manner to persons other than those specified in paragraph (c)(5)(i), whether or not the offeror or any of the offerees is then present in this State;

(d) "Capital" shall mean net capital as defined and adjusted under the formula established by the Securities and Exchange Commission in Rule 15c3-1, made pursuant to the Securities Exchange Act of 1934, prescribing a minimum permissible ratio of aggregate indebtedness to net capital, as such formula presently exists or as it may hereafter be amended;

(e) "Fraud," in addition to the usual construction placed on it and accepted in courts of law and equity, shall include the following, provided, however, that any promise, representation, misrepresentation or omission be made with knowledge and with intent to deceive and results in a detriment to the purchaser:

(1) Any misrepresentation by word, conduct or in any manner of any material fact, either present or past, and any omission to disclose any such fact;

(2) Any promise or representation as to the future which is beyond reasonable expectation or is unwarranted by existing circumstances;

(3) The gaining of, or attempt to gain, directly or indirectly, through a trade in any security, a commission, fee or gross profit so large and exorbitant as to be unconscionable and unreasonable;

(4) Generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or the value of such security;

(5) Any artifice, agreement, device or scheme to obtain money, profit or property by any of the means herein set forth or otherwise prohibited by this law;

(f) "Guaranteed" means guaranteed as to payment of principal, interest or dividends;

(g) "Investment advisor" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment advisor" does not include (1) a bank, savings institution, or trust company; (2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (3) a broker-dealer registered under this law; (4) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation; (5) a person whose advice, analyses, or reports relate only to securities exempted by section 3, paragraph (a) (1) and (2); (6) a person who has no place of business in this State if (a) his only clients in this State are other investment advisors, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (b) during any period of 12 consecutive months he does not direct business communications into this State in any manner to more than five clients other than those specified in subparagraph (6) (a) of this paragraph, whether or not he or any of the persons to whom the communications are directed is then present in this State; or (7) such other persons not otherwise within the intent of this paragraph (g) as the bureau chief may by rule or order designate;

(h) "Issuer" means any person who issues or proposes to issue any security, except that (1) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager

pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and (2) with respect to certificates of interest in oil, gas, or mining titles or leases, there is not considered to be any "issuer";

(i) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(j) (1) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value;

(2) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value;

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value;

(4) A purported gift of assessable stock is considered to involve an offer and sale;

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(6) The terms defined in this paragraph (j) do not include (a) any bona fide pledge or loan; (b) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; (c) any act incident to a class vote by stockholders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (d) any act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims,

or property interests, or partly in such exchange and partly for cash;

(k) "Savings institutions" shall mean any savings and loan association or building and loan association operating pursuant to the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-2 et seq.), and any federal savings and loan association and any association organized under the laws of any state whose accounts are insured by the Federal Savings and Loan Insurance Corporation and who are subject to supervision and examination by the Federal Home Loan Bank Board, and any credit union licensed and supervised under "The Credit Union Act of 1984," P.L. 1984, c. 171 (C. 17:13-79 et al.) or licensed and supervised by the National Credit Union Administration;

(l) "Securities Act of 1933," 48 Stat. 74 (15 U. S. C. § 77a et seq.); "Securities Exchange Act of 1934," 48 Stat. 881 (15 U. S. C. § 78a et seq.); "Public Utility Holding Company Act of 1935," 49 Stat. 838 (15 U. S. C. § 79 et seq.); "Investment Advisors Act of 1940," 54 Stat. 857 (15 U. S. C. § 80b-1 et seq.); and "Investment Company Act of 1940," 54 Stat. 847 (15 U. S. C. § 80a-1 et seq.) mean the federal statutes of those names as amended or supplemented before or after the effective date of this act;

(m) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement, including but not limited to certificates of interest or participation in real or personal property; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest in an oil, gas or mining title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable number of dollars either in a lump sum or periodically for life or some other specified period;

(n) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico;

(o) "Nonissuer" means secondary trading not involving the issuer of the securities or any person in a control relationship with the issuer;

(p) "Accredited investor" means any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the security to that person:

(1) Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(2) Any private business development company as defined in section 202(a)(22) of the Investment Advisors Act of 1940;

(3) Any organization described in section 501(c)(3) of the Internal Revenue Code, with total assets in excess of \$5,000,000.00;

(4) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(5) Any person who purchases at least \$150,000.00 of the securities being offered, where the purchaser's total purchase price does not exceed 20% of the purchaser's net worth at the time of sale, or joint net worth with that person's spouse, for one or any combination of the following: (i) cash, (ii) securities for which market quotations are readily available, (iii) an unconditional obligation to pay cash or securities for which market quotations are readily available, which obligation is to be discharged within five years of the sale of the securities to the purchaser, or (iv) the cancellation of any indebtedness owed by the issuer of the purchaser;

(6) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000.00; and

(7) Any natural person who had an individual income in excess of \$200,000.00 in each of the two most recent years and who reasonably expects an income in excess of \$200,000.00 in the current year.

The bureau chief may rule, or order, waive or modify the conditions in this subsection (p) and shall interpret and apply this subsection (p) so as to effectuate greater uniformity and coordination in federal-state securities registration exemptions;

(q) "Direct participation security" means a security which provides for flow-through tax consequences (tax shelter), regardless of the structure of the legal entity or vehicle for distribution, including, but not limited to, a security representing an interest in gas, oil, real estate, agricultural property, cattle, a condominium, or Subchapter S corporate offerings and all other securities of a similar nature, regardless of the industry represented by the security, or any combination thereof. Excluded from this definition are real estate investment trusts, tax qualified pension and profit-sharing plans pursuant to sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans under section 408 of the Internal Revenue Code, tax sheltered annuities pursuant to the provisions of section 403(b) of the Internal Revenue Code and any company including separate accounts registered pursuant to the Investment Company Act of 1940.

3. Section 3 of P. L. 1967, c. 93 (C. 49:3-50) is amended to read as follows:

C. 49:3-50 Exemptions.

3. (a) The following securities are exempt from the provisions of sections 13 and 16 of this act:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank, savings institution, or trust company organized and supervised under the laws of any state or under the laws of the United States;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any State or Federal Savings and Loan Association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this State;

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this State;

(6) Any security issued or guaranteed by any Federal Credit Union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this State;

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act; (C) regulated in respect to its rates and charges by a governmental authority of the United States or any state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange or the American Stock Exchange, and such other exchanges as the bureau chief may from time to time designate by rule or order; any security designated or approved for designation upon notice of issuance as a National Market System security on the National Association of Securities Dealers' Automated Quotation System or any other national quotation system as the bureau chief from time to time may designate by rule or order; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) Any security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash

within 12 months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) Any investment contract issued in connection with an employees' or professional stock purchase, savings, pension, profit-sharing, retirement or similar benefit plan if the bureau chief is notified in writing 30 days before the inception of the plan or, with respect to plans which are in effect on the effective date of this act, within 60 days thereafter (or within 30 days before they are reopened if they are closed on the effective date of this act);

(12) Any security issued by an issuer registered as an open-end management investment company or unit investment trust pursuant to section 8 of the "Investment Company Act of 1940" (15 U. S. C. § 80a-8), if:

(a) The issuer is advised by an investment advisor that is a depository institution exempt from registration under the "Investment Advisors Act of 1940" or that is currently registered as an investment advisor, and has been registered, or is affiliated with an advisor that has been registered, as an investment advisor under the "Investment Advisors Act of 1940" for at least three years immediately before an offer or sale of the security; and has acted, or is affiliated with an investment advisor that has acted, as investment advisor to one or more registered investment companies or unit investment trusts for at least three years immediately before an offer or sale of the security; or

(b) The issuer has a principal sponsor that has at all times throughout three years before an offer or sale of the security been the principal sponsor for one or more registered investment companies or unit investment trusts, the aggregate total assets of which have exceeded \$100,000,000.00.

For the purposes of this paragraph (12), and notwithstanding subsection (g) of section 2 of P. L. 1967, c. 93 (C. 49:3-49), "investment advisor" shall have the same meaning that it has pursuant to the "Investment Advisors Act of 1940." For the purposes of this paragraph (12), an investment advisor is affiliated with another investment advisor if it controls, is controlled by, or is under common control with the other advisor. For the purposes of this paragraph (12), "sponsor" of a unit investment trust means the person primarily responsible for the organization of the unit investment trust or who has continuing responsibilities for the

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administration of the affairs of the unit investment trust other than the trustee or custodian. "Sponsor" includes the depositor of the unit investment trust.

(b) The following transactions are exempt from the provisions of sections 13 and 16 of this act:

(1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(2) Any nonissuer transaction of an outstanding security if (A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operation, or (B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors, if less than three years, in the payment of principal, interest, or dividends on the security;

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the customer shall acknowledge upon a form prescribed by the bureau chief that the sale was unsolicited, and a signed copy of such form shall be filed with the Bureau of Securities;

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(5) Any transaction on a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a single unit;

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this act;

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-

dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(9) Any transaction pursuant to an offer directed by the offeror to not more than 10 persons (other than those designated in paragraph (b)(8)) in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if (i) the seller reasonably believes that all buyers are purchasing for investment, and (ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State; but the bureau chief may by rule or order, as to any transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in subdivisions (i) and (ii);

(10) Any offer or sale of a preorganization certificate or subscription if (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (ii) the number of subscribers does not exceed 10, and (iii) no payment is made by any subscriber;

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if (i) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this State, or (ii) the issuer first files a notice specifying the terms of the offer and the bureau chief does not by order disallow the exception within the next five full business days;

(12) Any nonpublic transaction by or on behalf of an issuer if (i) the issuer has reasonable grounds to believe and, after making reasonable inquiry, believes, immediately prior to making any sale, that there are no more than 35 purchasers of the issue in this State during any period of 12 consecutive months and that each purchaser either alone or with his representative has the knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment; (ii) a written offering statement or prospectus is furnished to each offeree, which provides the offeree with substantially the same information as is required by section 14(b) of

agent who is a partner, officer, or director, or a person occupying a similar status or performing similar functions;

(b) Every applicant for initial or renewal registration shall pay a filing fee of \$500.00 in the case of a broker-dealer, plus \$10.00 for each partner, officer, director, or principal doing business in this State; \$60.00 in the case of an agent; \$100.00 in the case of an investment advisor and \$100.00 in the case of an issuer. When application is denied or withdrawn, the bureau shall retain the fee. Whenever any supplemental filing, for the purpose of keeping current the information furnished to the bureau chief, is made there shall be a supplemental filing fee of \$5.00;

(c) A registered broker-dealer or investment advisor may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the registration period. There shall be no filing fee;

(d) The bureau chief may by rule require a minimum capital for registered broker-dealers; provided that the bureau chief shall not in any case require a minimum capital in excess of \$10,000.00 in the case of a registered broker-dealer; and provided further that the minimum capital requirement of a broker-dealer engaged exclusively in the sale of investment company shares shall not be in excess of \$5,000.00;

(e) The bureau chief may by rule require registered investment advisors who have custody of clients' funds or securities and registered broker-dealers to post surety bonds in amounts up to \$25,000.00, and may determine their conditions; provided that no such surety bond shall be required of an investment advisor or a broker-dealer who has a minimum capital of at least \$25,000.00 or of a broker-dealer engaged exclusively in the sale of investment company shares who has a minimum capital of \$5,000.00; except that, notwithstanding the provisions of this or any other section of this law, the bureau chief may by rule require registered broker-dealers and investment advisors, if such registrant or any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling such registrant has ever been convicted of any crime of the fourth degree or its equivalent in any other jurisdiction involving a security or any aspect of the securities business, or any crime of the first, second or third degree or its equivalent in any other jurisdiction, to post surety bonds in amounts up to \$200,000.00. Any appropriate deposit of cash or securities shall be accepted in

lieu of any bond so required. Every bond shall provide for suit thereon by any person who has a cause of action under section 24. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two years after the sale or other act upon which it is based, or within two years of the time when the person aggrieved knew or should have known of the existence of his cause of action, whichever is later;

(f) (1) The bureau chief may by rule provide for an examination which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment advisor in doing any of the acts which make him an investment advisor;

(2) Each applicant for such examination shall pay examination fees as follows: broker-dealer, \$50.00; partner, officer, or director doing business in this State, \$50.00; agent, \$50.00; and investment advisor, \$50.00. When an application for examination is denied or withdrawn, the bureau shall retain the fee;

(g) Registration as a broker-dealer or agent under this act for the limited purpose of engaging in the business of effecting or attempting to effect transactions in direct participation securities for the accounts of others or for his own account shall be permitted. All the requirements of this act shall apply to these limited registrations; except that any examination or other evaluation of proficiency or knowledge required by the bureau for this registration shall be limited to matters relating to direct participation securities and to the requirements of laws and regulations applicable to this registrant.

Any applicant for a limited registration shall acknowledge in writing to the bureau prior to registration that he understands (i) the limitations on the scope of his authority to do business pursuant to this limited registration; and (ii) that any activity which exceeds the limitations of the registration shall violate the provisions of this act and may result in disciplinary action by the bureau, prosecution under this act or other laws, or civil liability, to the same extent as if he was not registered under this act.

6. Section 13 of P. L. 1967, c. 93 (C. 49:3-60) is amended to read as follows:

C. 49:3-60 Conditions for sales of securities.

13. It is unlawful for any security to be offered or sold in this State unless:

(a) The security or transaction is exempt under section 3 of this act;

(b) The security or transaction is not subject to, or is exempt from, the registration requirements of the Securities Act of 1933 and the rules and regulations thereunder, other than by reason of section 3(a) or 3(b) of such act and the rules and regulations under said section 3(a) or 3(b), and a report of the offering is filed with the bureau within 30 days of the completion date of the offering, setting forth the name and address of the issuer, the total amount of the securities sold, the price at which the securities were sold, the total number of purchasers of the securities, and the names and addresses of the purchasers of the securities, indicating the number and amount of the securities each purchased. The fee for filing the report with the bureau shall be \$250.00. The information in the report of sale shall be deemed confidential and shall not be disclosed to the public except by order of the court or in court proceedings;

(c) (Deleted by amendment; P. L. 1985, c. 405.)

(d) (Deleted by amendment; P. L. 1985, c. 405.) or

(e) The security is registered under this act.

C. 49:3-61.1 Coordination with federal registration.

7. (New section) a. Any security for which a registration statement has been filed under the "Securities Act of 1933," 48 Stat. 74 (15 U. S. C. § 77a et seq.) in connection with the same offering may be registered by coordination.

b. A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in section 15 of P. L. 1967, c. 93 (C. 49:3-62) and the consent to service of process required by section 26 of P. L. 1967, c. 93 (C. 49:3-73):

(1) Three copies of the latest form of prospectus filed under the "Securities Act of 1933";

(2) If the bureau chief by rule or otherwise requires, a copy of the articles of incorporation and bylaws, or other substantial equivalents, currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(3) If the bureau chief requests, any other information, or copies of any other documents, filed under the "Securities Act of 1933"; and

(4) An undertaking to forward all amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, promptly, and in any event, not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever occurs first.

c. A registration statement under this section becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:

(1) No stop order is in effect and no proceeding is pending under section 17 of P. L. 1967, c. 93 (C. 48:3-64); and

(2) The registration statement has been on file with the bureau chief for at least 10 days, but if the registration statement is not filed with the bureau chief within 10 days after the initial filing under the "Securities Act of 1933," the registration statement has been on file with the bureau chief for 30 days or any shorter period the bureau chief, by rule or order, specifies; and

(3) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or a shorter period as the bureau chief permits by rule or otherwise; and

(4) The offering is made within the limitations set forth in paragraphs (1), (2) and (3) of this subsection.

The registrant shall promptly notify the bureau chief by telephone or telegram of the date and time when the federal registration statement became effective, and the content of a price amendment, if any is made, and shall promptly file a post-effective amendment containing the information and documents in the price amendment.

For the purposes of this section, "price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering prices.

d. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the bureau chief may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until there is compliance with subsection c. of this section, if he promptly notifies the registrant by

telephone or telegram, and in the case of a telephone notification, by subsequent written notification, of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order shall be void as of the time of its entry. The bureau chief may by rule or otherwise waive any of the conditions specified in paragraphs (1), (2), (3) and (4) of subsection c. of this section.

e. If the federal registration statement becomes effective before all the conditions in subsection c. are satisfied and they are not waived, the registration statement shall become effective as soon as all the conditions are satisfied. If the registrant advises the bureau chief of the date when the federal registration statement is expected to become effective, the bureau chief shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he contemplates the institution of a proceeding under section 17 of P. L. 1967, c. 93 (C. 49:3-64), but any advice by the bureau chief pursuant to this subsection shall not preclude the institution of such a proceeding at any time.

C. 49:3-61.2 Registration by notification.

8. (New section) The following securities may be registered by notification, whether or not they are also eligible for registration by coordination under section 7 of this 1985 amendatory and supplementary act or by qualification under section 14 of P. L. 1967, c. 93 (C. 49:3-61):

a. Any security whose issuer, and any predecessors, have been in continuous operation for at least five years, if:

(1) There has been no default during the current fiscal year or within the three preceding fiscal years in the payment of principal, interest, or dividends on any security of the issuer, or of any predecessor thereof, with a fixed maturity or a fixed interest or dividend provision; and

(2) The issuer, and any predecessors, during the past three fiscal years, have had an average net earnings, determined in accordance with generally accepted accounting practices:

(a) Which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision, which securities are outstanding at the date the registration statement is filed, and which average net earnings equal at least 5% of the amount of those outstanding securities, as measured by the maximum offer-

ing price or the market price on a day, selected by the registrant, within 30 days before the date of filing the registration statement, whichever is higher, or by the book value on a day, selected by the registrant, within 90 days of the date of filing the registration statement, to the extent that there is neither a readily determinable market price nor a cash offering price; or

(b) Which average net earnings, if the issuer, and any predecessors, have not had any security of the type specified in subparagraph (a) of this paragraph outstanding for three full fiscal years, equal to at least 5% of the amount, as established in subparagraph (a) of this paragraph, of all securities which will be outstanding if all of the securities being offered or proposed to be offered, whether or not they are proposed to be registered or offered in this State, are issued;

b. A registration statement under this section shall contain the following information and shall be accompanied by the following documents, in addition to the information specified in section 15 of P. L. 1967, c. 93 (C. 49:3-62) and the consent to service of process required by section 26 of P. L. 1967, c. 93 (C. 49:3-73):

(1) A statement demonstrating eligibility for registration by notification;

(2) With respect to the issuer and any significant subsidiary: its name, address, and form of organization, the state or foreign jurisdiction and the date of its organization, and the general character and location of its business;

(3) With respect to any person on whose behalf any part of the offering is to be made in a nonissuer distribution: his name and address, the amount of securities of the issuer held by him as of the date of the filing of the registration statement, and a statement of his reasons for making the offering;

(4) A description of the security being registered;

(5) The information and documents specified in paragraphs (10), (12), and (14) of subsection (b) of section 14 of P. L. 1967, c. 93 (C. 49:3-61); and

(6) In the case of any registration under paragraph (2) of subsection a. of this section which does not satisfy the conditions of paragraph (1), subsection a. of this section, a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement, and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any

period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence, if less than two years.

c. If no stop order is in effect and no proceeding is pending under section 17 of P. L. 1967, c. 93 (C. 49:3-64), a registration statement under this section automatically becomes effective at three o'clock Eastern Standard Time in the afternoon of the second full business day after the filing of the registration statement or the last amendment, or at such earlier time as the bureau chief determines.

9. Section 15 of P. L. 1967, c. 93 (C. 49:3-62) is amended to read as follows:

C. 49:3-62 Registration statement.

15. (a) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer.

(b) Every person filing a registration statement shall pay a filing fee of \$1,000.00. This fee shall not be refundable.

(c) Every registration statement shall specify (1) the amount of securities to be offered in this State; (2) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and (3) any adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in any state or by any court or the Securities and Exchange Commission.

(d) Any document filed pursuant to this supplementary act within three years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(e) The bureau chief may by rule or order permit the omission of any item of information or document from any registration statement.

(f) The bureau chief may waive the requirements of all or any part of section 14 or 15(h) of this act in the case of a nonissuer transaction of securities which were initially sold prior to the effective date of this supplementary act, where the information is not known by the person filing the registration statement or by the persons on whose behalf the transaction is to be made, or cannot be furnished by them without unreasonable effort or expense.

(g) Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempt transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under section 17 of this act. All outstanding securities of the same class as a registered security of the issuer are considered to be registered for the purpose of any nonissuer transaction (1) so long as the registration statement is effective and (2) between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under section 17 of this act (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one year from the effective date of the registration statement. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the bureau chief.

(h) So long as a registration statement is effective, the bureau chief may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering.

(i) A registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. Such an amendment becomes effective when the bureau chief so orders. Every person filing such an amendment shall pay a filing fee, calculated in the manner specified in subsection (b), with respect to the additional securities proposed to be offered.

10. Section 17 of P. L. 1967, c. 93 (C. 49:3-64) is amended to read as follows:

C. 49:3-64 Stop order.

17. (a) The bureau chief may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any

registration statement if he finds (1) that the order is in the public interest and (2) that

(i) The registration statement, as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 15(i) of this act as of its effective date, or any report under section 15(h) of this act, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(ii) Any provision of the Uniform Securities Law (1967) as amended or supplemented or any rule, order, or condition lawfully imposed thereunder has been willfully violated, in connection with the offering by (A) the person filing the registration statement, (B) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, or (C) any underwriter; or

(iii) The security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal, foreign or State act applicable to the offering; but (A) the bureau chief may not institute a proceeding against an effective registration statement under this subsection more than one year from the date of the order or injunction relied on, and (B) he may not enter an order under this subsection on the basis of an order or injunction entered under any other State act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section; or

(iv) The issuer's enterprise or method of business includes or would necessarily include activities which are illegal where performed; or

(v) (Deleted by amendment; P. L. 1985, c. 405.)

(vi) (Deleted by amendment; P. L. 1985, c. 405.)

(vii) The applicant or registrant has failed to pay the proper filing fee but he shall vacate any such order when the deficiency has been corrected; or

(viii) The issuer, any partner, officer or director of the issuer, any person occupying a similar status or performing similar

functions, or any person directly or indirectly controlling or controlled by the issuer, or any broker-dealer or other person involved directly or indirectly in the offering has been convicted of any crime of embezzlement under state, federal or foreign law or any crime involving any theft, forgery or fraudulent practices in regard to any state, federal or foreign securities, banking, insurance, or commodities trading laws or anti-fraud laws.

(b) The bureau chief may not institute an administrative stop order proceeding against any effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective, unless the proceeding is instituted within the next 30 days.

(c) The bureau chief may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding instituted pursuant to this section. Upon entry of such an order, the bureau chief shall promptly notify each person specified in subsection (d) that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested, the order will remain in effect until it is modified or vacated by the bureau chief upon notice to the parties specified in subsection (d).

(d) No stop order may be entered pursuant to this section, except as provided in subsection (c), without (1) appropriate prior notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be offered, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

(e) The bureau chief may vacate or modify a stop order if he finds that the conditions which prompted its entry have changed.

11. Section 9 of P. L. 1967, c. 93 (C. 49:3-56) is amended to read as follows:

C. 49:3-56 Registration required.

9. (a) It shall be unlawful for any person to act as a broker-dealer, agent or investment advisor in this State unless he is registered under this act;

(b) It shall be unlawful for any broker-dealer or issuer to employ an agent in this State unless the agent is registered. The registration of an agent is not effective during any period when he is not associated with a particular broker-dealer registered under this act or a particular issuer. When an agent begins or terminates

a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the bureau;

(c) It shall be unlawful for any person to transact business in this State as an investment advisor unless (1) he is so registered under this act, (2) he is registered as a broker-dealer without the imposition of a condition under section 11, paragraph (b) (5); or (3) his only clients in this State are investment companies as defined in the Investment Company Act of 1940 or insurance companies;

(d) The bureau chief may bar, after a hearing, any person, who has been convicted of any crime of embezzlement under state, federal or foreign law or any crime involving any theft, forgery, or fraudulent practices in regard to any state, federal or foreign securities, banking, insurance, or commodities trading laws or anti-fraud laws, from being a partner, officer or director of an issuer or from occupying a similar status or performing a similar function or from directly or indirectly controlling or being under common control or being controlled by an issuer, or from acting as a broker-dealer, agent or investment advisor in this State;

(e) Every registration shall expire 2 years from its effective date unless renewed, except that the bureau chief may by rule provide that registrations shall all expire on the same date.

12. Section 22 of P. L. 1967, c. 93 (C. 49:3-69) is amended to read as follows:

C. 49:3-69 Injunctive relief; appointment of receiver.

22. (a) When it shall appear to the bureau chief that a person has engaged in, is engaging in, or is about to engage in any practice declared to be illegal and prohibited by this law or when it shall appear that it will be against the public interest for any person to issue, sell, offer for sale, purchase, offer to purchase, promote, negotiate, advertise or distribute any securities from or within this State, the Attorney General on his behalf may bring an action in the Superior Court and apply therein for injunctive relief, or the appointment of a receiver, or both. The Attorney General shall notify the potential defendant two business days before filing the action and the court shall hear the action within three business days of its filing. The court may proceed in the action in a summary manner or otherwise;

(b) If it shall appear to the court in the action that such person has engaged in, is engaging in, or is about to engage in any prac-

tice declared to be illegal and prohibited by this law, it may enjoin such person, and any agent, employee, broker, partner, officer, director or stockholder thereof, from continuing such practices or engaging therein or doing any acts in furtherance thereof. The court may also enjoin the issuance, sale, offer for sale, purchase, offer to purchase, promotion, negotiation, advertisement or distribution from or within this State of any securities by such persons, and any agent, employee, broker, partner, officer, director or stockholder thereof, until the court shall otherwise order;

(c) When the court shall grant injunctive relief as provided for in paragraph (b), it may appoint a receiver with power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by this law, including property with which such property has been mingled, if it cannot be identified in kind because of such commingling, and to sell, convey and assign the same and hold and dispose of the proceeds thereof under the direction of the court for the equal benefit of all who establish an interest therein by reason of the use and employment by the defendant of any practices herein declared to be illegal and prohibited. The receiver may retain an attorney with the consent of the Attorney General and the court. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as justice shall require;

(d) When injunctive relief is granted as provided for in paragraph (b) against a corporation, partnership, company, association or trust, the court may appoint a receiver and may restrain the corporation, its officers, directors, stockholders, and agents, the partnership, company or association, its officers, members and agents, and the trust, its grantors, trustees, officers, cestuis que trustent and agents, from exercising any of its privileges or franchises, and in the case of a trust from executing the trust, and in all cases from collecting or receiving any debts, or paying out, selling, assigning or transferring any of its estate, moneys, funds, lands, tenements or effects except to the receiver appointed by the court until the court shall otherwise order.

Upon the appointment of the receiver, all the real and personal property of the corporation, partnership, company, association or

trust, and its franchises, rights, privileges and effects shall forthwith vest in him and the corporation, partnership, company, association or trust shall be divested of the title thereto.

The receiver shall settle the estate and distribute the assets, and have all the powers and duties conferred upon receivers by the provisions of Title 14, Corporations, General, so far as the provisions thereof are applicable.

13. Section 23 of P. L. 1967, c. 93 (C. 49:3-70) is amended to read as follows:

C. 49:3-70 Violations; penalties.

23. (a) Any person who willfully violates any provision of this act, except section 7, or who willfully violates any rule or order under this law, or who willfully violates section 7, knowing the statement made to be false or misleading in any material respect, shall be guilty of a crime of the third degree; but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this law more than five years after the alleged violation.

(b) Any person who violates any of the provisions of this law or who violates any rule or order under this law shall be liable for the first violation to a penalty of not more than \$10,000.00; for a second violation to a penalty of not more than \$20,000.00; and for subsequent violation to a penalty of \$20,000.00. The penalty shall be sued for and recovered by and in the name of the bureau chief and shall be collected and enforced by summary proceeding pursuant to "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). Process shall issue at the suit of the bureau chief, as plaintiff, and shall be either in the nature of a summons or warrant.

14. Section 24 of P. L. 1967, c. 93 (C. 49:3-71) is amended to read as follows:

C. 49:3-71 Action for deceit.

24. (a) Any person who

(1) Offers or sells a security in violation of section 8 (b), 9 (a) or 13 of this act, or

(2) Offers or sells a security by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading (the buyer not

knowing of the untruth or omission), is liable to the person buying the security from him, who may sue to recover the consideration paid for the security, together with interest at 12% per year from the date of payment and costs, less the amount of any income received on the security, upon the tender of the security and any income received on it, or for damages if he no longer owns the security; provided, however, that the person buying the security must sustain the burden of proof that the seller knew of the untruth or omission and intended to deceive the buyer, and provided further that the buyer has suffered a financial detriment. Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at 12% per year from the date of disposition;

(b) Every person who directly or indirectly controls a seller liable under paragraph (a), every partner, officer, or director of such a seller, every person occupying a similar status or performing similar functions, every employee of such a seller who materially aids in the sale, and every broker-dealer or agent who materially aids in the sale are also liable jointly and severally with and to the same extent as the seller, unless the nonseller who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable;

(c) Any tender specified in this section may be made at any time before entry of judgment;

(d) Every cause of action under this law survives the death of any person who might have been a plaintiff or defendant;

(e) No person may sue under this section more than two years after the contract of sale, or within two years of the time when the person aggrieved knew or should have known of the existence of his cause of action, whichever is later. No person may sue under this section (1) if the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid, together with interest at 12% per year from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within 30 days of its receipt, or (2) if the buyer received such an offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within 30 days of its receipt;

(f) No person who has made or engaged in the performance of any contract in violation of any provision of this law or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract;

(g) Any condition, stipulation or provision binding any person acquiring any security to waive compliance with any provision of this law or any rule or order hereunder is void;

(h) The rights and remedies provided by this act are in addition to any other rights or remedies that may exist at law or in equity, but this law does not create any cause of action not specified in this section or section 10, paragraph (e).

C. 49:3-66.1 Securities Enforcement Fund.

15. (New section) The "Securities Enforcement Fund" is established in the Division of Consumer Affairs of the Department of Law and Public Safety as a nonlapsing, revolving fund. All fees collected pursuant to sections 10, 15 and 16 of P. L. 1967, c. 93 (C. 49:3-57, 49:3-62 and 49:3-63), and all fines collected pursuant to section 23 of P. L. 1967, c. 93 (C. 49:3-70) shall be deposited in the fund. Moneys in the fund shall be used by the Director of the Division of Consumer Affairs to administer the provisions of the "Uniform Securities Law," P. L. 1967, c. 93 (C. 49:3-47 et seq.) and to investigate violations and to enforce the prohibitions of that law to protect the public. There shall be made available from the General Fund such additional amounts as may be required to carry out the provisions of P. L. 1967, c. 93 (C. 49:3-47 et seq.).

An annual accounting of deposits to and withdrawals from the fund shall be made by the Director of the Division of Consumer Affairs and filed with the Attorney General and bureau chief and any State agency, as required by law.

16. (New section) There is created a commission to be known as the "Securities Regulation Study Commission," which shall consist of 15 members to be appointed as follows: two members of the Senate to be appointed by the President thereof, not more than one of whom shall be of the same political party; two members of the General Assembly to be appointed by the Speaker thereof, not more than one of whom shall be of the same political party; the Attorney General or his designee, the Chief of the Bureau of Securities or his designee, and the Commissioner of the Department of Commerce and Economic Development or his

designee, who shall be members of the commission ex officio; and eight public members who are residents of this State, four of whom to be appointed by the Governor with the advice and consent of the Senate, two to be appointed by the President of the Senate and two to be appointed by the Speaker of the General Assembly. All members shall serve without compensation. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

17. (New section) It shall be the duty of the commission to inquire into current practices and abuses in the registration, sale, purchase and underwriting of securities in this State; to inquire into ways and means of effectively enforcing the securities law; and to review the "Uniform Securities Act (1985)" that was approved by the National Conference of Commissioners of Uniform State Laws in its August, 1985 meeting.

18. (New section) The commission shall organize as soon after the appointment of its members as is practicable. The commission shall elect a chairman from among its members and the chairman shall appoint a secretary, who need not be a member of the commission.

The commission may meet and hold hearings at any place or places within the State as it shall designate.

19. (New section) The commission shall hold public hearings, and shall be entitled to call to its assistance and avail itself of the services of such 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 said purpose, and to employ counsel and such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for such purpose.

20. (New section) The commission shall report its findings and recommendations to the Governor and the Legislature not later than May 1, 1987, accompanying the same with any proposed legislation which it may desire to recommend for enactment.

21. (New section) There is appropriated to the commission the sum of \$25,000.00 to effectuate the purposes of sections 16 through 19 of this 1985 amendatory and supplementary act.

Repealer.

22. The "Real Estate Syndication Offerings Law," P. L. 1963, c. 192 (C. 49:3-27 et seq.), is repealed.

23. This act shall take effect on the 90th day after enactment except that sections 16 through 20 of this act shall take effect on January 1, 1986 and expire on December 31, 1987.

Approved January 9, 1986.

CHAPTER 406

AN ACT concerning the assessment and disposition of certain penalties and amending P. L. 1979, c. 396.

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

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

C. 2C:43-3.1 Victim compensation, advocacy 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 a penalty of at least \$30.00, but not to exceed \$10,000.00 for each such crime for which he was convicted. In imposing this penalty the court shall consider factors such as the severity of the crime, the defendant's criminal record, the defendant's ability to pay and the economic impact of the penalty 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, violation of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21-1 et seq.), or any crime not resulting in the injury or death of any other person shall be assessed a penalty of \$30.00 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 20 of P. L. 1973, c. 306 (C. 2A:4-61) 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 3 of P. L. 1973, c. 306 (C. 2A:4-44), shall be assessed a penalty of at least \$15.00 for each such adjudication, but shall not exceed the amount which could be assessed if the offense was committed by an adult.

(3) All penalties provided for in this section shall be collected as provided for collection of fines and restitution in section 3 of P. L. 1979, c. 396 (C. 2C:46-4) and forwarded to the Violent Crimes Compensation Board for use as provided in paragraph (4) hereof.

(4) All moneys collected pursuant to paragraphs (1) and (2) shall be forwarded by the Violent Crimes Compensation Board to the State Treasury to be deposited in a separate account for use by the Violent Crimes Compensation Board in satisfying claims and for related administrative costs, pursuant to the provisions of the "Criminal Injuries Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B-1 et seq.), except that after the Violent Crimes Compensation Board shall have received the first \$25.00 of each penalty assessment per count for an adult offender or the first \$10.00 of each penalty assessment per count for a juvenile offender, then the next \$5.00 of each penalty assessment collected shall be forwarded by the Violent Crimes Compensation Board to the State Treasury to be deposited in a separate account to be known as the Victim and Witness Advocacy Fund to be administered by the Department of Law and Public Safety as provided herein. If the initial penalty assessment is greater than \$30.00 for an adult offender or \$15.00 for a juvenile offender then any penalty assessment money collected after the \$5.00 allocated to the Victim and Witness Advocacy Fund shall be forwarded by the Violent Crimes Compensation Board to the State Treasury to be deposited in the separate account for use by the Violent Crimes Compensation Board as provided for in this subsection. The parties responsible for collection of the penalty assessment, the municipal court clerks, the county probation departments and the Department of Corrections shall provide the Violent Crimes Compensation Board with a monthly accounting of the penalty assessment collections which enables the Violent Crimes Compensation Board to accurately identify the \$5.00 share allocable to the Victim and Witness Advocacy Fund.

(5) The Department of Law and Public Safety through the Division of Criminal Justice shall be responsible for administering the Victim and Witness Advocacy Fund. This fund shall be used to support the development and provision of services to victims and witnesses of crimes and for related administrative costs. The Director of the Division of Criminal Justice shall promulgate rules and regulations in order to effectuate the purposes of this fund.

(6) The Division of Criminal Justice shall report annually to the Governor and the Legislature concerning the implementation of this fund.

b. All moneys, including fines and restitution, collected from a person convicted of any disorderly persons offense, any petty disorderly persons offense, violation of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21-1 et seq.), from any juvenile adjudicated delinquent or any crime shall be applied first to any penalty imposed pursuant to this section upon such a person.

c. An adult prisoner of a State correctional institution who has not paid a penalty imposed pursuant to this section shall have the penalty deducted from any income the inmate receives as a result of labor performed at the institution or any type of work release program.

d. If any person, including an inmate, fails to comply with any of the terms or penalties imposed pursuant to this section the court may, in addition to any other penalties it may impose, order the suspension of the person's driver's license or nonresident reciprocity privilege, or prohibit the person from receiving or obtaining a license until the terms or penalties are complied with. The court shall notify the Director of the Division of Motor Vehicles of the action. Prior to any action being taken pursuant to this subsection, the person shall be afforded notice and a hearing before the court to contest the charge of failure to comply.

2. This act shall take effect immediately.

Approved January 9, 1986.

CHAPTER 407

AN ACT providing appropriations for the implementation of victim and witness services.

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

1. There is appropriated from the General Fund the sum of \$270,000.00 to the Violent Crimes Compensation Board. Of this appropriation, \$150,000.00 shall be used to operate the Office of Victim-Witness Assistance created by P. L. 1985, c. 404 (C. 52:4B-39 et seq.) and \$120,000.00 shall be used to implement the provisions of P. L. 1985, c. 406.

2. There is appropriated from the General Fund the sum of \$350,000.00 to the Department of Law and Public Safety, Division of Criminal Justice, to operate the Office of Victim-Witness Advocacy created by P. L. 1985, c. 404.

3. The State Attorney General or his designee shall use all reasonable efforts to seek out and obtain funds established by the federal "Victims of Crime Act of 1984," Pub. L. 98-473 (18 U.S.C. § 1402 et al.), to be used for the purposes given to the Office of Victim-Witness Advocacy created by P. L. 1985, c. 404.

4. This act shall take effect upon the enactment into law of P. L. 1985, c. 404 and c. 406.

Approved January 9, 1986.

CHAPTER 408

AN ACT concerning radon gas and radon progeny contamination supplementing P. L. 1958, c. 116 (C. 26:2D-1 et seq.), and making an appropriation.

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

C. 26:2D-59 Radon gas, progeny study.

1. The Department of Environmental Protection shall prepare and transmit to the Governor and Legislature a study concerning

the dangers posed to the public health, safety, and welfare by the presence of radon gas and radon progeny in residential dwellings, schools, and public buildings in the State. The study shall identify the potential sources of contamination in the State, identify demographic, geologic, and geographic areas subject to an actual or potential threat or danger of contamination, and develop a cost-effective strategy for radon gas and radon progeny contamination testing. The study shall include recommendations for private actions to solve or alleviate potential health problems and any legislative or executive action that should be taken. The department shall prepare and transmit to the Governor and the Senate Institutions, Health and Welfare Committee and the General Assembly Agriculture and Environment Committee interim reports on its progress in implementing this section. The department shall transmit its first report on May 1, 1986 and subsequent reports every six months thereafter.

C. 26:2D-60 Voluntary registry.

2. The Department of Health shall conduct an epidemiologic study of cancer and the presence of radon gas and radon progeny in residential dwellings and shall maintain a voluntary registry of persons at risk of radiogenic lung cancer. The department shall communicate promptly to persons on the registry new techniques for the prevention of mortality from the disease.

C. 26:2D-61 Monitoring.

3. The Department of Environmental Protection and the Department of Health shall coordinate to establish a program of confirmatory monitoring of the presence of radon gas and radon progeny in residential dwellings, utilizing local health officers and the Department of Environmental Protection personnel.

C. 26:2D-62 Public information, education program.

4. The Departments of Environmental Protection and Health shall also coordinate to establish a public information and education program to inform the public of the potential health effects of the presence of radon gas and radon progeny in residential dwellings and the geographic areas in the State subject to an actual or potential threat of danger and the measures which can be taken to protect the health, safety, and welfare of the citizens of the State. This public information and education program shall include:

a. A cooperative program with county and local health departments to facilitate health education in response to requests from the public; and

b. A toll-free public telephone information service within the Department of Environmental Protection to answer questions from residents of the State concerning radon gas and radon progeny contamination. The availability of the public telephone information service shall be published in the major newspapers circulated in the geographic areas of this State subject to an actual or potential threat of danger from radon gas or radon progeny contamination.

5. There is appropriated from the General Fund to the Department of Environmental Protection the sum of \$2,600,000.00 to carry out the provisions of this act.

6. There is appropriated from the General Fund to the Department of Health the sum of \$600,000.00 to carry out the provisions of this act.

7. This act shall take effect immediately.

Approved January 10, 1986.

CHAPTER 409

AN ACT concerning the payment of municipal building permit fees by counties, municipalities and other local government units.

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

C. 52:27D-126c Public building fee waiver.

1. No county, municipality, or any agency or instrumentality thereof shall be required to pay any municipal fee or charge in order to secure a construction permit for the erection or alteration of any public building or part thereof from the municipality wherein the building may be located. No erection or alteration of any public building or part thereof by a county, municipality, or any agency or instrumentality thereof shall be subject to any fee, including any surcharge or training fee, imposed by any department or agency of State government pursuant to any law, or rule or regulation.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 410

AN ACT to provide for the designation of State and regional cultural centers in New Jersey.

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

C. 52:16A-26.1 Short title.

1. This act shall be known and may be cited as the "State and Regional Centers of Artistic Excellence Act."

C. 52:16A-26.2 Definitions.

2. As used in this act:

a. "Council" means the New Jersey State Council on the Arts in the Department of State;

b. "Cultural activities" means performances, displays, and educational programs of music, dance, opera, theatre, painting, sculpture, architecture, photography, film art, handicrafts, graphic arts, design, literature, and other similar or related activities;

c. "Network" means more than one facility, structure or space which are managed and operated in conjunction and cooperation with one another for the primary purpose of presenting or producing cultural activities;

d. "Qualifying governmental body" means a municipality, contiguous municipalities or a county in which government arts or cultural boards or commissions, nonprofit arts or cultural corporations, and arts, cultural, educational, or philanthropic organizations provide, in conjunction with one another, a wide range of cultural activities on a year-round basis through the management, operation, and maintenance of the necessary facilities;

e. "Regional center" means a cultural facility or network of facilities to be designated by the council pursuant to this act, which is located within a municipality or within two or more contiguous municipalities, which possesses the appropriate and requisite space, technical capabilities and professional management to present or produce on a year-round basis cultural programs and activities of high artistic quality representing a balanced variety of major disciplines and forms, and which serves a broad and diverse regional audience;

f. "State center" means a cultural facility or network of facilities to be designated by the council pursuant to this act, which is located within a municipality or within two or more contiguous municipalities, which possesses the appropriate and requisite space, technical capabilities and professional management to present or produce on a year-round basis cultural programs and activities of the highest artistic quality by major State, national or international artists and arts groups representing all major disciplines and forms, and which serves a diverse Statewide audience.

C. 52:16A-26.3 Powers, responsibilities.

3. In addition to the powers and responsibilities provided under any other law, the council shall have the following powers and responsibilities:

a. To provide municipalities, counties and prospective centers with information related to qualification, application and reapplication under the provisions of this act;

b. To designate centers in qualifying municipalities and counties pursuant to this act;

c. To monitor continuously the operation of centers so designated;

d. To remove designation of or to redesignate from State to regional a center if, within the municipality, municipalities or county, the boards, commissions, and organizations responsible for management, operation, and maintenance of the facilities fail to continue to meet the criteria established for the respective designations of State and regional centers; and

e. To promulgate the 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. 52:16A-26.4 Application for center designation.

4. A qualifying governmental body may develop and adopt by ordinance or resolution a State cultural center plan or a regional cultural center plan to be submitted to the council as an application for designation as a center. The plan shall include:

a. A description of the facilities available for cultural activities;

b. A statement of the boards, commissions, and organizations responsible for management, operation, and maintenance of the facilities involved and activities provided, and any plans or commitments made by these groups for the continuation of services and provision of activities;

c. A description of the types of cultural activities that are provided, or are to be provided, at and by the center; and

d. A statement of commitments made by private individuals, businesses, and organizations for developing, financing, and maintaining the center and its activities.

C. 52:16A-26.5 State cultural center.

5. Upon application by a municipality, two or more contiguous municipalities or a county, the council shall designate a facility or network of facilities within the applicant's jurisdiction as a State cultural center under the provisions of this act, if it determines that the plan submitted demonstrates that:

a. The variety of cultural activities includes programs of all major arts disciplines of interest to all segments of the population and are presented on a year-round basis;

b. The facilities of the proposed center are capable, in terms of seating capacity, staging, appurtenant production preparation space, auxiliary facilities, sound, lighting and other technical aspects, management, marketing, maintenance support, parking and convenience, of meeting the needs of major State, national and international artists and arts groups and serving New Jersey citizens residing outside the municipal and county boundaries;

c. The cultural activities provided are of high quality and merit; and

d. Private individuals, businesses, and organizations are participating in the functioning of the center in an effort to promote and develop cooperation between public and private entities in the support of cultural activities.

The council shall review, and approve or disapprove, an application within 120 days of receipt. If the council disapproves the application, it shall set forth its reasons in writing to the applicant within 30 days of its determination. The applicant may amend its ordinance or resolution and resubmit an application to the council, subject to the review and approval provisions of this section.

C. 52:16A-26.6 Regional cultural center.

6. Upon application by a municipality, two or more contiguous municipalities, or a county, the council shall designate a facility or network of facilities within the applicant's jurisdiction as a regional cultural center under the provisions of this act, if it determines that the plan submitted demonstrates that:

a. The variety of cultural activities offered represents a mixture of major arts disciplines through programs of interest to all segments of the population;

b. The facilities of the proposed center are capable, in terms of seating capacity, staging, appurtenant production preparation space, auxiliary facilities, sound, lighting and other technical aspects, management, marketing and maintenance support, parking and convenience, of presenting a wide range of artists and arts groups and of serving New Jersey citizens residing outside the municipal boundaries;

c. The cultural activities are of high quality and merit; and

d. Private individuals, businesses, and organizations are participating in the functioning of the center in an effort to promote and develop cooperation between public and private entities in the support of cultural activities.

The council shall review, and approve or disapprove, an application within 120 days of receipt. If the council disapproves the application, it shall set forth its reasons in writing to the applicant within 30 days of its determination. The applicant may amend its ordinance or resolution and resubmit an application to the council, subject to the review and approval provisions of this section.

C. 52:16A-26.7 Continued grant eligibility.

7. Participation in the cultural activities of a designated State or regional center shall not preclude an organization or individual from being eligible for a grant of fellowships awarded by the council pursuant to P. L. 1966, c. 214 (C. 52:16A-25 et seq.) nor shall it mandate or influence the awarding of additional grants of fellowships by the council.

8. This act shall take effect 60 days following enactment, except that subsection e. of section 3 shall take effect immediately.

Approved January 13, 1986.

CHAPTER 411

AN ACT concerning certain utility service and amending P. L. 1971, c. 224.

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

1. Section 1 of P. L. 1971, c. 224 (C. 2A:42-85) is amended to read as follows:

C. 2A:42-85 Findings.

1. The Legislature finds:

a. Many citizens of the State of New Jersey are required to reside in dwelling units which fail to meet minimum standards of safety and sanitation;

b. It is essential to the health, safety and general welfare of the people of the State that owners of substandard dwelling units be encouraged to provide safe and sanitary housing accommodations for the public to whom such accommodations are offered;

c. It is necessary, in order to insure the improvement of substandard dwelling units, to authorize the tenants dwelling therein to deposit their rents with a court appointed administrator until such dwelling units satisfy minimum standards of safety and sanitation;

d. It is necessary to establish an efficient procedure whereby public officers, tenants and utility companies may act to stop and prevent wrongful diversion of utility services and thereby protect both the utility companies and their customers from fraud.

2. Section 2 of P. L. 1971, c. 224 (C. 2A:42-86) is amended to read as follows:

C. 2A:42-86 Definitions.

2. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context.

a. "Public officer" shall mean the officer, officers, board or body who is or are authorized by the governing body of a municipality to supervise the physical condition of dwellings within such municipality pursuant to this act.

b. "Owner" shall mean the holder or holders of the title in fee simple.

c. "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a dwelling, and who are in actual possession thereof and any person authorized to receive rents payable for housing space in a dwelling.

d. "Dwelling" means and includes all rental premises or units used for dwelling purposes except owner-occupied premises with not more than two rental units.

e. "Housing space" means that portion of a dwelling rented or offered for rent for living or dwelling purposes in which cooking equipment is supplied, and includes all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with the use or occupancy of such portion of the property. The term shall not mean or include public housing or dwelling space in any hotel, motel or established guest house, commonly regarded as a hotel, motel or established guest house, as the case may be, in the community in which it is located.

f. (Deleted by amendment, P. L. 1985, c. 411.)

g. (Deleted by amendment, P. L. 1985, c. 411.)

h. "Substandard dwelling" means any dwelling determined to be substandard by the public officer.

i. "State Housing Code" means the code adopted by the Department of Community Affairs pursuant to P. L. 1966, c. 168 (C. 2A:42-74 et seq.).

j. "Utility company" means a public utility, as defined in R. S. 48:2-13, or a municipality, county, water district, authority or other public agency, which provides electric, gas or water utility service.

3. Section 3 of P. L. 1971, c. 224 (C. 2A:42-87) is amended to read as follows:

C. 2A:42-87 Court proceeding.

3. A proceeding by a public officer, tenant, or tenants of a dwelling for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing codes or regulations or a proceeding by a public officer, a tenant whose utility service has been diverted or a utility company for a judgment directing the deposit of rents into court and their use for correcting any wrongful diversion of utility service in a dwelling may be maintained in a court of competent jurisdiction. The place of trial of the proceeding shall be within the county in which the real property or a portion thereof from which the rents issue is situated. In cases involving real property located in cities of the first class that have established full-time municipal housing courts, the proceedings may be brought in the municipal housing court of the city in which the property is located.

4. Section 4 of P. L. 1971, c. 224 (C. 2A:42-88) is amended to read as follows:

C. 2A:42-88 Grounds for action.

4. a. The public officer or any tenant occupying a dwelling may maintain a proceeding as provided in this act, upon the grounds that there exists in such dwellings or in housing space thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or any other condition dangerous to life, health or safety.

b. A public officer, a tenant whose utility service has been diverted or a utility company providing electric, gas or water utility service to a dwelling may maintain a proceeding as provided in this act upon the grounds (1) that there exists in these dwellings or in housing space thereof a wrongful diversion of electric, gas or water utility service by the owner or owners or other party from a tenant of the dwelling without the consent of the tenant, or the use by the owner or other party in the dwelling without the tenant's consent of electric, gas or water utility service that is being charged to the tenant, and (2) that the owner has been notified by either a public officer, a tenant whose utility service has been diverted or a utility company of the wrongful diversion or unconsented use by certified mail and has failed to take necessary action to correct or eliminate the wrongful diversion or unconsented use within 30 days of receipt of such notice. If an owner fails or refuses to accept a notice sent by certified mail, the date of receipt shall be deemed to be the third day after mailing, provided the notice was sent to the owner at an address to which the owner's utility bills or municipal tax bills are sent.

5. Section 6 of P. L. 1971, c. 224 (C. 2A:42-90) is amended to read as follows:

C. 2A:42-90 Contents of petition.

6. The petition shall:

a. Set forth material facts showing that there exists in such dwelling or any housing space thereof one or more of the following: (1) a lack of heat or of running water or of light or electricity or of adequate sewage disposal facilities; (2) a wrongful diversion of electric, gas, or water utility service by the owner or other party from the tenant of the dwelling without the consent of the tenant; (3) the use by the owner or other party in the dwelling

without the tenant's consent of electric, gas, or water utility service that is being charged to the tenant; (4) any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations; or (5) any other condition dangerous to life, health or safety.

b. Set forth that the facts shown in subsection a. of this section have been brought to the attention of the owner or any individual designated by him as the manager of said dwelling and that he has failed to take any action thereon within a reasonable period.

c. Set forth that the petitioner is a tenant of the subject dwelling or is the public officer of the municipality in which the subject dwelling is located, or, in a case involving wrongful diversion or unconsented use of utility services, that the petitioner is a public officer, a tenant whose utility service has been wrongfully diverted or a utility company providing utility services to the dwelling.

d. Set forth a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof.

e. Set forth the amount of rent due from each petitioning tenant, if any, monthly.

f. State the relief sought.

6. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 412

AN ACT concerning conveyances by counties and municipalities to certain nonprofit organizations and amending, P. L. 1971, c. 199.

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

1. Section 21 of P. L. 1971, c. 199 (C. 40A:12-21) is amended to read as follows:

C. 40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality

CHAPTER 413

AN ACT concerning violations of the "Rooming and Boarding House Act of 1979," and amending and supplementing P. L. 1979, c. 496 (C. 55:13B-1 et seq.).

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

1. Section 10 of P. L. 1979, c. 496 (C. 55:13B-10) is amended to read as follows:

C. 55:13B-10 Corporate, personal liability for violations.

10. a. No person shall: (1) obstruct, hinder, delay or otherwise interfere with any action of the commissioner in the exercise of any power or duty under the provisions of this act; (2) prepare, utter or otherwise render any false statement, application, report or document which is permitted or required pursuant to this act; or (3) refuse to comply with any ruling, order, notice or action made by the commissioner pursuant to the provisions of this act.

b. Any person who violates any provision of subsection a. above shall be liable for a civil penalty of not less than \$50.00 nor more than \$5,000.00 for each violation. Each day during which any person violates any such provision after the date fixed for termination of the violation in any order for termination issued by the commissioner shall constitute an additional, separate and distinct violation, except during the time an appeal from such an order is taken or pending. If an administrative penalty order has not been satisfied within 30 days of its issuance, the penalty may be sued for and recovered by the commissioner in a summary proceeding in the Superior Court under "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.).

c. The commissioner may suspend, cancel, revoke, or refuse to issue any endorsement to the license of any owner or operator who violates any provision of subsection a. above.

Where the owner or operator found to be in violation of subsection a. of this section is a corporation, then the commissioner may suspend, cancel, revoke, or refuse to issue any endorsement to the license of: (1) the officers, directors and shareholders of the corporation, and (2) any corporation owning or operating a rooming or boarding house that has among its officers, directors or share-

holders any person whose license has been suspended, cancelled or revoked pursuant to paragraph (1) of this subsection.

d. Where either the owner or operator of a boarding or rooming house found to be in violation of subsection a. above is a corporation, then, in addition to the corporation being subject to the penalties set forth in subsection b., the officers and directors of the corporation are subject, individually and personally, to those penalties.

C. 55:13B-11.1 Criminal offenses.

2. (New section) The penalties contained in this section are in addition to any other penalties which may be imposed for a violation of P. L. 1979, c. 496 (C. 55:13B-1 et seq.).

a. A person who knowingly owns or operates a boarding or rooming house without a valid license issued pursuant to section 7 of P. L. 1979, c. 496 (C. 55:13B-7) commits a disorderly persons offense.

b. An owner or operator of a boarding or rooming house who knowingly fails to correct or abate any violation within the time period specified in a notice or report of violation or any order of the Commissioner of Community Affairs rendered as a result of an inspection conducted by the Department of Community Affairs or any duly authorized municipal or county inspector commits a disorderly persons offense.

c. An owner or operator of a boarding or rooming house who knowingly fails to comply with an order of the commissioner issued after a finding of imminent hazard pursuant to section 11 of P. L. 1979, c. 496 (C. 55:13B-11) commits a crime of the fourth degree.

d. Where a corporation is the owner or operator of a boarding or rooming house, the corporate officers, as well as the corporation, are liable for violations of subsections a., b. and c. of this section.

e. It is no defense to a violation of this section that the owner or operator of the rooming or boarding house has not collected rent, or has been unable to collect rent, from the residents of the premises.

C. 55:13B-11.2 Each violation separate.

3. (New section) Where a notice, order or report served or issued pursuant to the provisions of P. L. 1979, c. 496 (C. 55:13B-1 et seq.) specifies several conditions in need of correction or abatement, failure to correct or abate each condition constitutes a separate offense under that act.

4. This act shall take effect on the 90th day following enactment.

Approved January 13, 1986.

CHAPTER 414

AN ACT providing for the terms of retirement of certain elected public officials who are members of the Public Employees' Retirement System and supplementing P. L. 1954, c. 84 (C. 43:15A-1 et seq.).

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

C. 43:15A-47.2 Retirement of elected officials.

1. Notwithstanding any contrary provision of the act to which this act is a supplement, and except as may be otherwise provided in P. L. 1972, c. 167 (C. 43:15A-135 et seq.) and P. L. 1983, c. 316 (C. 43:15A-47.1), a member of the retirement system shall be eligible to retire while holding public office to which he was elected if his retirement allowance is not based solely on his service in the public office to which he was elected, and no contributions shall be required of the member covering that service, provided the member serves only for the term for which he was elected and receives not more than 60% of the salary to which he is entitled.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 415

AN ACT concerning the transportation of hazardous materials, amending and supplementing P. L. 1983, c. 401, repealing P. L. 1950, c. 128 and making an appropriation.

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

C. 39:5B-30 Transportation of hazardous materials.

1. (New section) The transportation of hazardous materials in this State shall be carried out in accordance with the provisions of P. L. 1983, c. 401 (C. 39:5B-25 et seq.) and this amendatory and supplementary act, except that this section shall not be

construed to limit the application or enforcement of the system of reporting the generation, transportation, storage and disposal of hazardous wastes required to be reported to the Department of Environmental Protection on the special waste manifest pursuant to N. J. A. C. 7:26-7.1 et seq., or as otherwise provided by law.

C. 39:5B-31 Inspection of vehicles.

2. (New section) a. The Superintendent of the State Police may inspect such vehicles, railroad cars, and places of origin or destination in the State of the hazardous materials being transported, as may be necessary to carry out the provisions of P. L. 1983, c. 401 and this amendatory and supplementary act. The superintendent may also break such cargo seals on vehicles and railroad cars as may be necessary to inspect vehicles and railroad cars transporting hazardous materials to ascertain that packages as defined in 49 C. F. R. § 171.8 have been properly classified, described, packaged, marked, labeled, blocked and braced and are in proper condition for shipment.

b. The powers exercised by the superintendent pursuant to this section may also be exercised by police officers of the Port Authority of New York and New Jersey, and by personnel of the Department of Transportation duly authorized by the superintendent. Appropriate personnel of the Department of Environmental Protection duly authorized by the superintendent may, consistent with federal regulations, inspect the contents of packages referred to in subsection a. of this section at places of origin prior to acceptance by the transporter or at places of destination after acceptance by the consignee. In addition, personnel of the Department of Environmental Protection so authorized may conduct, in conjunction with and under the direction of State Police personnel, inspections and break cargo seals as described in subsection a. of this section when at off-highway facilities, including, but not limited to, public truck stops, public rest areas, State weigh stations, and commercial motor vehicle inspection stations.

c. The Commissioner of Transportation is authorized to adopt, in consultation with the Superintendent of the State Police and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations governing inspection and the breaking of cargo seals by those authorized to do so under this section. No person not given specific authority in this section to do so shall break cargo seals under this section or otherwise implement the provisions of this section.

C. 39:5B-32 Rules, regulations.

3. (New section) 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. §§ 2301-2304).

4. Section 4 of P. L. 1983, c. 401 (C. 39:5B-28) is amended to read as follows:

C. 39:5B-28 Annual report.

4. The department, in consultation with the Department of Environmental Protection, the Department of Labor, the Department of Commerce and Economic Development, the Divisions of Motor Vehicles and State Police of the Department of Law and Public Safety, and other appropriate State departments and agencies, shall, within one year of the effective date of this act and annually thereafter, prepare and submit to the Governor and the Legislature a report detailing the incidence and means of the transportation of hazardous materials in this State, evaluating the protection afforded New Jersey citizens therefrom by all relevant federal and State statutes and regulations, and recommending executive or legislative actions necessary to insure the safe and proper transportation of hazardous materials.

5. Section 5 of P. L. 1983, c. 401 (C. 39:5B-29) is amended to read as follows:

C. 39:5B-29 Violations; penalties.

5. a. Any person who violates the provisions of this act or any rule or regulation adopted pursuant thereto shall be subject to a penalty of not less than \$50.00 nor more than \$5,000.00 for the first offense, nor less than \$100.00 nor more than \$10,000.00 for the second offense, nor less than \$250.00 nor more than \$25,000.00 for the third or any subsequent offense. The Department of Transportation is authorized to adopt a schedule of penalties for any specific violation of P. L. 1983, c. 401 (C. 39:5B-25 et seq.) or any rule or regulation adopted pursuant thereto. A penalty imposed pursuant to this act may 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 a summary proceeding before a court of competent jurisdiction wherein injunctive relief has been sought. The State Police and police officers of the Port Authority of New York and New Jersey may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for violations of P. L. 1983, c. 401 (C. 39:5B-25 et seq.) and this amendatory and supplementary act or any rule or regulation adopted pursuant thereto. In addition to the jurisdiction conferred by "the penalty enforcement law," the Law and Chancery Divisions of the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalties provided in this act. The various municipal courts shall have jurisdiction of proceedings for the enforcement of penalties under \$5,000.00 provided in P. L. 1983, c. 401 (C. 39:5B-25 et seq.).

b. Penalties imposed pursuant to this act shall in no way reduce or otherwise limit the liability of any person, pursuant to the laws of this State, for cleanup costs or other damages arising from a discharge of hazardous materials.

c. The Superintendent of the State Police, police officers of the Port Authority of New York and New Jersey and personnel of the Department of Transportation and of the Department of Environmental Protection duly authorized by the superintendent may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division, General Equity Part of the Superior Court as to any person found to have violated any provision of P. L. 1983, c. 401 (C. 39:5B-25 et seq.) or this amendatory and supplementary act or any rule or regulation adopted pursuant to either.

d. With respect to violations dealing with motor vehicle equipment and inspection, the provisions and penalties of article 3 of chapter 3 and of chapter 8 respectively of Title 39 of the Revised Statutes and rules and regulations adopted thereunder shall apply rather than the provisions of P. L. 1983, c. 401 (C. 39:5B-25 et seq.), this amendatory and supplementary act and rules and regulations adopted pursuant thereto.

Repealer.

6. P. L. 1950, c. 128 (C. 39:5B-1 et seq.) is repealed.

7. There is appropriated to the Department of Law and Public Safety from the General Fund the sum of \$1,000,000.00 to carry out the purposes of this amendatory and supplementary act and to otherwise enforce the provisions of P. L. 1983, c. 401 (C. 39:5B-25 et seq.). The Commissioner of Transportation may request of the

Attorney General such sums as may be necessary to carry out the responsibilities of the Department of Transportation under P. L. 1983, c. 401. The Attorney General may transfer to the Department of Transportation such sums as he deems appropriate.

8. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 416

AN ACT appropriating moneys from the "Water Supply Fund," created pursuant to the "Water Supply Bond Act of 1981" (P. L. 1981, c. 261).

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," established by the "Water Supply Bond Act of 1981" (P. L. 1981, c. 261), the sum of \$50,000,000.00* 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, as recommended by the New Jersey Statewide Water Supply Plan.

2. The funds made available pursuant to this act shall be in the form of a loan with principal payments due to be repaid to the "Water Supply Fund" and interest payments due to be repaid to 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.

3. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P. L. 1981, c. 261, and the certification by the Commissioner of the Department of Environmental Protection that the water supply project for which funds are made available pursuant to this act complies with the requirements of the selection process set forth in the New Jersey Statewide Water Supply Plan.

4. This act shall take effect immediately.

Approved January 13, 1986.

* Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 416 (Senate Bill No. 2376 (OCR))

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 2376 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill would appropriate \$70 million from the "Water Supply Fund" established pursuant to the "Water Supply Bond Act of 1981," to the Department of Environmental Protection for the purpose of making a loan to the North Jersey District Water Supply Commission to finance a portion of its share of the Monksville Reservoir-Wanaque South water supply project.

Construction of this water supply system is clearly one of the highest water resource priorities in the State, as is evidenced by the fact that it is highly recommended in the latest update to the "New Jersey Statewide Water Supply Master Plan." As is outlined in the plan, operation of the Monksville system is integral to assuring adequate water supply in the heavily populated northeastern portion of the State, and all relevant agencies of government unanimously support the immediate use of State water supply bond funds to assist in financing its construction.

The inclusion of this water supply project in the water supply plan is also important from a legal standpoint, since the water supply bond act clearly provides that only those projects included in the plan are legally eligible for funding with water supply bond proceeds. Based upon this provision in the bond act, however, I am concerned that \$20 million of the \$70 million appropriation is intended for expenditure on a related "water treatment" project which is not included in the Statewide Water Supply Master Plan. Therefore, financing the water treatment project with water supply bond proceeds would clearly be an unauthorized use of those proceeds under the water supply bond act.

I am therefore reducing the appropriation of water supply bond proceeds in this bill to \$50 million. This funding level is consistent

with the Department of Environmental Protection's recommendations for State financing of this important water supply project.

Accordingly, the appropriation is reduced to \$50 million as follows:

Page 1, section 1, line 4: Delete "\$70,000,000.00" and insert "\$50,000,000.00"

Respectfully,
THOMAS H. KEAN
Governor

CHAPTER 417

AN ACT concerning Sunday sales and supplementing P. L. 1959, c. 119 (C. 2A:171-5.8 et seq.).

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

C. 2A:171-5.24 Municipal Sunday sales referendum.

1. In a county approving Sunday sales by referendum held pursuant to P. L. 1959, c. 119 (C. 2A:171-5.8 et seq.), any municipality in that county which voted to prohibit Sunday sales at that referendum may by municipal referendum and pursuant to R. S. 40:45-3 submit to the legal voters of the municipality for their approval the question of whether Sunday sales shall be permitted in that municipality.

C. 2A:171-5.25 Prior referenda valid.

2. The provisions of this act shall not invalidate any referendum held pursuant to the provisions of P. L. 1959, c. 119 (C. 2A:171-5.8 et seq.) prior to the effective date of this act.

3. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 418

AN ACT concerning the sale of apple and peach trees, supplementing chapter 8 of Title 4 of the Revised Statutes, and repealing sections 4:8-18 to 4:8-27, inclusive, of the Revised Statutes.

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

C. 4:8-28 Definitions.

1. As used in this act:

a. "Apple tree" means any commercially accepted or advertised variety of *Malus domestica* Borkh budded to a seedling or dwarfing rootstock where one graft union is formed or budded to an interstem dwarfing rootstock combination where two graft unions are provided.

b. "Commercial grower" means a purchaser of a lot of 100 trees or more who plants them on land qualified for farmland assessment pursuant to the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1 et seq.) and is not primarily engaged in the sale or resale of apple or peach trees.

c. "Peach tree" means any commercially accepted or advertised variety of *Prunus persica* (L.) batch budded to understock where a graft union is formed or the variety has been directly rooted into soil or rooting medium without the use of an undershoot.

d. "Seller" means any person engaged in the business of soliciting or negotiating the sale, resale, exchange or shipment of apple or peach trees.

e. "Variety" means a subdivision of a kind of apple or peach tree as qualified by date of bloom, flower type, date of ripening, tree growth habit, fruit characteristics, peach leaf glands or other characteristics by which it can be differentiated from other plants of the same kind.

C. 4:8-29 Seller liability.

2. a. Any seller of apple trees to a commercial grower is liable for the trueness to variety, rootstock, or interstem for a period of eight years following the date of delivery to the grower.

b. Any seller of peach trees to a commercial grower is liable for trueness to variety, rootstock, or interstem for a period of four years following the date of delivery to the grower.

c. A seller shall not sell one or more lots of apple or peach trees to a commercial grower where 7% or more of the trees do not conform to the variety, rootstock, or interstem stated on a bill of lading, invoice, or any other document provided by the seller to the grower.

C. 4:8-30 Civil action for violation.

3. Any commercial grower may bring a civil action in law or equity on the grower's own behalf against a seller for a violation

of any provision of this act. The Superior Court has jurisdiction of this action. The court, upon finding a violation of this act, may award costs of litigation, including reasonable attorney and expert witness fees.

The court, upon finding a violation of this act, shall award damages to the commercial grower for each tree found of untrue variety at the rate of four times the original cost of the tree. Where the number of untrue trees exceeds 25% of the lot, the court shall award damages at the rate of four times the cost of the entire lot.

Repealer.

4. R. S. 4:8-18 to R. S. 4:8-27, inclusive, are repealed.

5. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 419

AN ACT concerning local fiscal affairs, and supplementing chapter 5 of Title 40A of the New Jersey Statutes.

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

C. 40A:5-16.3 Payment in advance.

1. Notwithstanding the provisions of N. J. S. 40A:5-16, the governing body of any local unit participating in a statutorily authorized joint, inter-local or other cooperative activity may, by resolution, provide for and authorize payment in advance of estimated administrative or direct service costs to the local unit or other party providing administrative services or otherwise acting on behalf of or for the group.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 420

A SUPPLEMENT to "An act making appropriations for the support of State government and the several public purposes for the fiscal year ending June 30, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

04-8030 Local Government Services	\$70,000
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State Aid:

Special Assistance to Union

Township in Union County	(\$70,000)
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The amount hereinabove is appropriated for the sole purpose of establishing a pilot program on police officer stress management and health maintenance, to be conducted by the police department of Union township and Memorial General Hospital.

2. The report of the pilot program on police officer stress management and health maintenance shall be sent to the Department of Community Affairs and to the Attorney General immediately after its completion. The Attorney General shall then distribute the report to all State, county and municipal law enforcement departments.

3. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 421

AN ACT concerning ordinances and amending R. S. 40:67-1.

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

1. R. S. 40:67-1 is amended to read as follows:

Ordinances concerning streets.

40:67-1. The governing body of every municipality may make, amend, repeal and enforce ordinances to:

a. Ascertain and establish the boundaries of all streets, highways, lanes, alleys and public places in the municipality, and prevent and remove all encroachments, obstructions and encumbrances in, over or upon the same or any part thereof;

b. Establish, change the grade of or vacate any public street, highway, lane or alley, or any part thereof, including the vacation of any portion of any public street, highway, lane or alley measured from a horizontal plane a specified distance above or below its surface and continuing upward or downward, as the case may be; vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any part, has been actually opened or improved; accept any street, highway, lane, alley, square, beach, park or other place, or any part thereof, dedicated to public use, and thereafter, improve and maintain the same. The word "vacate" shall be construed for all purposes of this article to include the release of all public rights, resulting from any dedication of lands not accepted by the municipality. Any vacation ordinance adopted pursuant to this subsection shall expressly reserve and except from vacation all rights and privileges then possessed by public utilities, as defined in R. S. 48:2-13, and by any cable television company, as defined in the "Cable Television Act," P. L. 1972, c. 186 (C. 48:5A-1 et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated;

c. Prescribe the time, manner in which and terms upon which persons shall exercise any privilege granted to them in the use of any street, highway, alley or public place, or in digging up the same

for laying down rails, pipes, conduits, or for any other purpose whatever;

d. Prevent or regulate the erection and construction of any stoop, step, platform, window, cellar door, area, descent into a cellar or basement, bridge, sign, or any post, erection or projection in, over or upon any street or highway, and for the removal of the same at the expense of the owner or occupant of the premises where already erected;

e. Cause the owners of real estate abutting on any street or highway to erect fences, walls or other safeguards for the protection of persons from injury from unsafe places on said real estate adjacent to or near such street or highway; and provide for the erection of the same by the municipality at the expense of the owner or owners of such real estate;

f. Regulate or prohibit the erection and maintenance of fences or any other form of inclosures fronting on any municipal street, highway, lane, alley or public place;

g. Prevent persons from depositing, throwing, spilling or dumping dirt, ashes or other material upon any street or highway or portion thereof, or causing or permitting the same to be done;

h. Regulate or prohibit the placing of banners or flags, in, over or upon any street or avenue;

i. Cause the territory within the municipality to be accurately surveyed and a map or maps to be prepared showing the location and width of each street, highway, lane, alley and public place, and a plan for the systematic opening of roads and streets in the future. Such map or maps may be changed from time to time;

j. Provide for the adoption and changing of a system of numbering all buildings and lots of land in such municipality, and the display upon each building of the number assigned to it, either at the expense of the owner thereof or of the municipality;

k. Provide for the naming and changing the names of streets and highways, and the erection thereon of signs, showing the names thereof, and guide posts for travelers;

l. Regulate processions and parades through the streets and highways of the municipality.

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

Approved January 13, 1986.

CHAPTER 422

AN ACT concerning fees and costs to be charged and collected by county clerks and deputy clerks of the Superior Court and registers of deeds and mortgages, amending N. J. S. 22A:2-25, N. J. S. 22A:2-26, N. J. S. 22A:2-27, N. J. S. 22A:2-29, P. L. 1965, c. 123 and P. L. 1968, c. 313, supplementing Title 22A of the New Jersey Statutes and repealing N. J. S. 22A:3-1, N. J. S. 22A:3-2 and N. J. S. 22A:3-3.

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

1. N. J. S. 22A:2-25 is amended to read as follows:

Law Division filing fees.

22A:2-25. Upon the filing, entering or docketing with the deputy clerk of the Superior Court in the various counties of the herein-mentioned papers or documents by either party to any action or proceeding in the Law Division of the Superior Court, other than a civil action in which a summons or writ must be issued, he shall pay the deputy clerk of the court the following fees:

Entering of complaint or first paper of any action or proceeding	\$9.00
Filing complaint	\$3.00
Filing answer or appearance	\$6.00
Filing any other pleading, any amended plead- ing or any amendment to a pleading	\$3.00
Filing and entering each order or judgment of court, including order to show cause	\$6.00
Filing and entering a voluntary dismissal, either by stipulation or order of court	\$7.50
Filing notice of appeal	\$15.00
Filing proceedings or papers on appeal	\$6.00
Filing first paper on petition for expungement	\$22.50
Filing any other paper or document not herein stated	\$4.50
Signing and sealing habeas corpus	\$7.50
Signing and issuing subpoena	\$1.50

2. N. J. S. 22A :2-26 is amended to read as follows :

Motion fee.

22A :2-26. Upon all motions, with or without notice, in the Law Division of the Superior Court, the moving party shall pay to the clerk of the said division \$9.00

This section shall not apply to an action in which a summons or writ must be issued.

3. N. J. S. 22A :2-27 is amended to read as follows :

Appeal filing fee.

22A :2-27. In cases appealed to the Law Division of the Superior Court from any inferior court or tribunal, criminal or civil, the clerk of the division shall charge a fee of \$30.00 for filing a notice of appeal, appeal papers and proceedings, including judgment in the Superior Court or order of dismissal.

4. N. J. S. 22A :2-29 is amended to read as follows :

County clerk fees.

22A :2-29. Upon the filing, indexing, entering or recording of the following documents or papers in the office of the county clerk or deputy clerk of the Superior Court, such parties, filing or having the same recorded or indexed in the county clerk's office or with the deputy clerk of the Superior Court in the various counties in this State, shall pay the following fees in lieu of the fees heretofore provided for the filing, recording or entering of such documents or papers :

In general—

Issuing county clerk's certificate, any instrument	\$3.00
Comparing and making copies, per sheet	\$3.00
Copies of all papers, typing and comparing of photostat, per page	\$1.50
Marking as a true copy, any instrument	\$1.50
Exemplification, any instrument	\$7.50
Plus \$1.00 per page of instrument.	
Recording or filing all instruments not herein stated	\$7.50

Bonds, bail, recognizances—

Recording all official bonds with acknowledgment and proof of the execution thereof	\$9.00
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Filing and entering recognizance or civil bail	\$9.00
Filing discharge, attachment bond	\$9.00
Filing satisfaction or order discharging recog- nizance or civil bail	\$9.00
Filing and recording filiation bond	\$9.00
Filing satisfaction of or order discharging filia- tion bond	\$9.00
Recording or discharging sheriff's bond	\$9.00
Nonbusiness corporation, recording:	
Certificates of incorporation of corporations and associations not-for-profit, and of societies, clubs, credit unions, churches, religious societies and congregations	\$15.00
Amendments to certificates of incorporation, all corporations, recording	\$15.00
All other corporate certificates, recording	\$9.00
Bank merger agreements, recording:	
Three sheets or less	\$15.00
Each sheet over three	\$3.00
Certificates, each	\$3.00
Trade names, firms, partnerships:	
Certificate of name, filing (see R. S. 56:1-1 et seq.)	\$30.00
Certificate of dissolution of trade name (see R. S. 56:1-6 et seq.)	\$9.00
Bottles, et cetera, description (see R. S. 56:3-14 et seq.)	\$4.50
Building and loan or savings and loan associations:	
Change of name	\$15.00
Dissolution	\$9.00
Certificates for limited-dividend housing associations, recording	\$15.00
Certificates for urban renewal associations, recording	\$15.00
Judgments, et cetera—	
Recording judgment	\$9.00

Filing, entering and recording judgment on bond and warrant by attorney	\$37.50
Certificate for docketing Superior Court transcript	\$9.00
Recording assignment of judgment	\$15.00
Issuing transcript of judgment	\$7.50
Filing or entering on the record of discharge, cancellation, release or satisfaction of a judgment by satisfaction piece, execution returned satisfied or otherwise	\$7.50
For recording and indexing postponement of the lien of judgment	\$15.00
Execution on judgment:	
Issuing warrant on court order	\$9.00
Drawing execution	\$9.00
Recording execution	\$9.00
Warrant for satisfaction	\$6.00
Writ of attachment	\$9.00
Writ of possession	\$9.00
Writ of sequestration	\$9.00
Discharge of writ	\$9.00
Mandate	\$15.00
Liens—	
Filing, indexing and recording mechanic's lien claim ..	\$9.00
Recording, filing and noting on the record the discharge, release or satisfaction of a mechanic's lien claim ..	\$9.00
Extension of lien claim	\$3.00
Filing statement in mechanic's lien proceeding	\$9.00
Filing, recording and indexing mechanic's notice of intention	\$4.50
Filing a certificate discharging a mechanic's notice of intention and noting the discharge on the record thereof ..	\$4.50
Filing certificate from court of commencement of suit ..	\$4.50
Filing a court order amending a mechanic's notice of intention	\$9.00
Filing a court order to discharge notice of intention and noting the discharge on the record thereof	\$9.00

Filing, recording and indexing stop notice	\$4.50
Filing a certificate discharging a stop notice and noting the discharge on the record thereof	\$4.50
Filing a court order discharging a stop notice and noting the discharge on the record thereof	\$9.00
Filing building contract	\$15.00
Filing discharge of building contract	\$9.00
Filing building specifications	\$7.50
Filing building plans	\$7.50
Filing each notice of physician's lien	\$4.50
Entering upon the record the discharge of a physician's lien	\$4.50
Filing each hospital lien claim	\$4.50
Discharge of hospital lien	\$4.50
Filing satisfaction or order for discharge of attachment	\$9.00
Recording collateral inheritance waiver or receipt	\$9.00
Recording inheritance tax waiver	\$9.00
Subordination, release, partial release or postponement of a lien to lien of mortgage	\$7.50
Commissions and oaths—	
Administering oaths to notaries public and commissioners of deeds	\$7.50
For issuing certificate of authority of notary to take proof, acknowledgement of affidavit	\$3.00
For issuing each certificate of the commission and qualification of notary public for filing with other county clerks	\$6.00
For filing each certificate of the commission and qualification of notary public, in office of county clerk of county other than where such notary has qualified ..	\$6.00
Miscellaneous—	
Filing and recording proceedings for laying out, vacating or dedicating roads	\$15.00
Recording firemen's certificates	No charge
Registering physician	\$15.00
Issuing alcoholic beverage identification card	\$6.00

5. Section 2 of P. L. 1965, c. 123 (C. 22A:4-4.1) is amended to read as follows:

C. 22A:4-4.1 Deed, mortgage recording fees.

2. County clerks and registers of deeds and mortgages, in counties having such offices, shall charge for the services herein enumerated the following fees:

	Fee
For recording veteran's discharge papers	No fee
For recording any instrument:	
First page	\$15.00
Each additional page or part thereof	\$2.00
Each rider, insertion, addition, or any map, plat or sketch filed or recorded pursuant to paragraph (c) of section 2 of P. L. 1957, chapter 130	\$2.00
For entering the marginal notation of an order, judgment, statement or warrant discharging, annulling a notice of lis pendens and for filing such order, judgment or statement	\$3.00
For preparing and transmitting to the assessor, collector, or other custodian of the assessment map of any taxing district, the abstract of an instrument evidencing title to realty	\$3.00
For entering the marginal notation of a discharge or release of a New Jersey building and loan or savings and loan mortgage and forwarding abstract	\$3.00
For entering the marginal notation of a discharge, assignment, postponement or release of a mortgage, other than building and loan and savings and loan mortgages	\$3.00
For the cancellation of any mortgage	\$8.00
For a marginal notation of the discharge of a mortgage in counties where mortgages are indexed under a system requiring a duplication of indices and description	\$3.00
For filing and recording notice of federal tax lien or certificate discharging such lien	\$8.00
For filing each map, plat, plan or chart (except when presented by the State or its agencies or filed pursuant to paragraph (c) of section 2 of P. L. 1957, c. 130 (C. 48:3-17.3))	\$18.00
For recording tax sale certificate, except by municipalities, or a redemption or assignment of tax sale certificate, first page	\$15.00
Each additional page or part thereof	\$2.00

Certified copy of veteran's discharge	\$1.00
For indexing any recorded instrument in excess of 10 parties, per each name in excess of 10	\$0.30
For recording tax sale certificate, lien, deed, or related instrument by a municipality	\$3.00

6. Section 4 of P. L. 1968, c. 313 (C. 33:1-81.5) is amended to read as follows:

C. 33:1-81.5 Identification card fee.

4. A fee of \$6.00 shall be paid to each county clerk for the issuance of an identification card hereunder.

C. 22A:4-17.1 Funds to upgrade services.

7. (New section) a. The county treasurer shall return to the county clerk or the register of deeds and mortgages \$1.00 of each fee received for the recording, filing or cancelling of a document in the office of the county clerk or register of deeds and mortgages. Such sums shall be returned within 10 days of receipt of the fee by the county treasurer.

b. Monies received by the county clerks or registers of deeds and mortgages pursuant to the provisions of subsection a. shall be used to upgrade and modernize the services provided by their offices.

c. The provisions of subsection a. shall not apply to fees received from municipalities for recording, filing or cancelling documents.

Repealer.

8. N. J. S. 22A :3-1, N. J. S. 22A :3-2, and N. J. S. 22A :3-3 are repealed.

9. This act shall take effect immediately but section 7 shall expire five years from the date of enactment.

Approved January 13, 1986.

CHAPTER 423

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there are appropriated from the General Fund the following sums for the purposes specified:

DIRECT STATE SERVICES

DEPARTMENT OF HIGHER EDUCATION

Educational, Cultural and Intellectual Development

36 Higher Educational Services

5540 Montclair State College

19-5540 Physical Plant Support Services \$1,150,000

Special Purpose:

Reimbursement to the current holder of the certificate of approved registration statement and engineering design for all verifiable and reasonable expenses directly related to the maintenance of the certificate of approved registration statement and engineering design and its rescission, plus interest on the amount of these expenses pursuant to P. L. 1984, c. 221 (C. 13:1E-5.3) (\$700,000)

Closure of site according to Department of Environmental Protection specifications (450,000)

Total Appropriation, Montclair State College . . . \$1,150,000

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 424

AN ACT establishing the New Jersey Community Trust for Persons with Severe Chronic Disabilities and supplementing chapter 11 of Title 3B of the New Jersey Statutes.

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

C. 3B:11-19 Short title.

1. This act shall be known and may be cited as the "New Jersey Community Trust for Persons with Severe Chronic Disabilities Act."

C. 3B:11-20 Findings.

2. The Legislature finds that it is in the public interest to encourage activities by voluntary associations and private citizens which will supplement and augment those services provided by local, State, and federal government agencies in discharge of their responsibilities toward individuals with severe chronic disabilities. The Legislature further finds that, as a result of changing social, economic, and demographic trends, families of persons with severe chronic disabilities are increasingly aware of the need for a vehicle by which they can assure ongoing individualized personal concern for a severely disabled family member who may survive his parents or other family members, and provide for the efficient management of small legacies or trust funds to be used for the benefit of such a disabled person. In a number of other states voluntary associations have established foundations or trusts intended to be responsive to these concerns. Therefore, a study of the experience in other states suggests that New Jersey would benefit by the enactment of enabling legislation expressly authorizing the formation of community trusts in accordance with criteria set forth by statute and administered by the Secretary of State. These community trusts permit the pooling of resources contributed by families or persons with philanthropic intent, along with the reservation of portions of these funds for the use and benefit of designated beneficiaries.

C. 3B:11-21 Purposes, policies.

3. This act shall be liberally construed and applied to promote its underlying purposes and policies, which are among others to:

- a. encourage the orderly establishment of community trusts for the benefit of persons with severe chronic disabilities;
- b. ensure that community trusts are administered properly and that the managing boards of the trusts are free from conflicts of interest;
- c. facilitate sound administration of trust funds for persons with severe chronic disabilities by allowing family members and others to pool resources in order to make professional management investment more efficient;
- d. provide parents of persons with severe chronic disabilities peace of mind in knowing that a means exists to ensure that the

interests of their children who have severe chronic disabilities are properly looked after and managed after the parents die or become incapacitated;

e. help make guardians available for persons with severe chronic disabilities who are incompetent, when no other family member is available for this purpose;

f. encourage the availability of private resources to purchase for persons with severe chronic disabilities goods and services that are not available through any governmental or charitable program and to conserve these resources by limiting purchases to those which are not available from other sources;

g. encourage the inclusion, as beneficiaries of community trusts, of persons who lack resources and whose families are indigent, in a way that does not diminish the resources available to other beneficiaries whose families have contributed to the trust; and

h. remove the disincentives which discourage parents and others from setting aside funds for the future protection of persons with severe chronic disabilities by ensuring that the interests of beneficiaries in community trusts are not considered assets or income which would disqualify them from any governmental or charitable entitlement program with an economic means test.

C. 3B:11-22 Definitions.

4. As used in this act:

a. "Beneficiary" means any person with a severe chronic disability who has qualified as a member of the community trust program and who has the right to receive those services and benefits of the community trust program as provided in this act.

b. "Board" means the board of trustees or the group of persons vested with the management of the business and affairs of a corporation, formed for the purpose of managing a community trust, irrespective of the name by which the group is designated.

c. "Community trust" means a nonprofit organization which offers the following services:

(1) administration of special trust funds for persons with severe chronic disabilities;

(2) follow-along services;

(3) guardianship for persons with severe chronic disabilities who are incompetent, when no other immediate family member or friend is available for this purpose; and

(4) advice and counsel to persons who have been appointed as individual guardians of the persons or estates of persons with severe chronic disabilities.

d. "Follow-along services" means those services offered by community trusts which are designed to insure that the needs of each beneficiary are being met for as long as may be required and may include periodic visits to the beneficiary and to the places where the beneficiary receives services, participation in the development of individualized plans being made by service providers for the beneficiary, and other similar services consistent with the purposes of this act.

e. "Severe chronic disability" means a physical or mental impairment which is expected to give rise to a long-term need for specialized health, social, and other services, and which makes the person with such a disability dependent upon others for assistance to secure these services.

f. "Trustee" mean any member of the board of a corporation, formed for the purpose of managing a community trust, whether that member is designated as a trustee, director, manager, governor, or by any other title.

g. "Surplus trust funds" means funds accumulated in the trust from contributions made on behalf of an individual beneficiary, which, after the death of the beneficiary, are determined by the board to be in excess of the actual cost of providing services during the beneficiary's lifetime, including the beneficiary's share of administrative costs.

C. 3B:11-23 Nonprofit corporations.

5. This act shall apply to every community trust established in this State after the effective date of this act. In addition to meeting the other requirements of the act, every board which administers a community trust shall incorporate as a nonprofit corporation in accordance with the provisions of Title 15A of the New Jersey Statutes. Except as otherwise provided herein, the provisions of Title 15A of the New Jersey Statutes shall apply to the community trust.

C. 3B:11-24 Board.

6. Every community trust shall be administered by a board. The board shall be comprised of no less than nine and no more than 21 members, at least one-third of whom shall be parents or relatives of persons with severe chronic disabilities. No board member shall be a provider of habilitative, health, social, or educational services to persons with severe chronic disabilities or an employee of such a service provider. The board may, however, allow service providers to serve on the board in an advisory capacity. Board mem-

bers shall be selected, to the maximum extent possible, from geographic areas throughout the area served by the trust.

The certificate of incorporation filed with the Secretary of State pursuant to Title 15A of the New Jersey Statutes shall, in addition to the requirements set forth in that Title, demonstrate that the requirements of this section have been met.

C. 3B:11-25 No compensation.

7. Notwithstanding any other provision of law to the contrary, no trustee may be compensated for services provided as a member of the board of a community trust. No fees or commissions shall be paid to these trustees; however, a trustee may be paid for necessary expenses incurred by the trustee and may receive indemnification as permitted under Title 15A of the New Jersey Statutes.

C. 3B:11-26 Bylaws.

8. The board shall adopt bylaws which shall include a declaration delineating the primary geographic area serviced by the trust and the principal services to be provided and shall file the bylaws with the Secretary of State.

C. 3B:11-27 Services; guardianship.

9. The board may retain paid staff as it may deem necessary to provide follow-along services to the extent required by each beneficiary. The board may authorize the expenditure of funds for any goods or services which, in its sole discretion, it determines will promote the well-being of any beneficiary, including recreational services. The board may pay for the burial of any beneficiary. The board, however, may not expend funds for any goods or services of comparable quality to those available to any particular beneficiary through any governmental or charitable program, insurance, or other sources. The board may expend funds to meet the reasonable costs of administering the community trust.

The board is not required to provide services to a beneficiary who is a competent adult and who has refused to accept the services. Further, the board shall not provide services of a nature or in a manner that would be contrary to the public policy of this State at the time the services are to be provided. In either case, the board may offer alternative services that are consistent with the purposes of this act and in keeping with the best interests of the beneficiary.

The board may accept appointment as guardian of the person, guardian of the estate or guardian of both on behalf of any bene-

fiary. If the board accepts appointment as guardian of the person of an individual, it shall assign a staff member to carry out its responsibilities as the guardian. The board may, on request, offer consultative and professional assistance to an individual, private or public guardian of any of its beneficiaries.

C. 3B:11-28 Contributions; written statement of services.

10. The board may accept contributions, bequests, and designations under life insurance policies to the community trust on behalf of individuals with severe chronic disabilities for the purpose of qualifying them as beneficiaries.

At the time a contribution, bequest, or assignment of insurance proceeds is made, the trustor shall receive a written statement of the services to be provided to the beneficiary. The statement shall include a starting date for the delivery of services or the condition precedent, such as the death of the trustor, which shall determine the starting date. The statement shall describe the frequency with which services shall be provided and their duration, and the criteria or procedures for modifying the program of services from time to time in the best interests of the beneficiary.

C. 3B:11-29 Itemized annual statement.

11. Along with the annual report filed with the Secretary of State pursuant to Title 15A of the New Jersey Statutes, the board shall file an itemized statement which shows the funds collected for the year, income earned, salaries, other expenses incurred, and the opening and final trust balances. A copy of this statement shall be made available, upon request, to any beneficiary, trustor, or designee of the trustor. In addition, once annually, each trustor or the trustor's designee shall receive a detailed individual statement of the services provided to the trustor's beneficiary during the previous 12 months and the services to be provided during the following 12 months. The board shall make a copy of the individual statement available to any beneficiary, upon request.

C. 3B:11-30 Qualification of indigent persons.

12. The board may accept gifts and use surplus trust funds for the purpose of qualifying as beneficiaries any indigent person whose family members lack the resources to make a full contribution on that person's behalf. The extent and character of the services and selection of beneficiaries are at the discretion of the board. The board may not use surplus trust funds to make any charitable contribution on behalf of any beneficiary or any group or class of beneficiaries. The board may accept gifts to meet start-up costs, reduce the charges to the trust for the cost of

administration, and for any other purpose that is consistent with this act. Gifts made to the trust for an unspecified purpose shall be used by the board either to qualify indigent persons whose families lack the means to qualify them as beneficiaries of the trust or to meet any start-up costs that the trust incurs.

C. 3B:11-31 Special requests; individual trusts.

13. The board may agree to fulfill any special requests made on behalf of a beneficiary as long as the requests are consistent with this act and provided an adequate contribution has been made for this purpose on behalf of a beneficiary. The board may agree to serve as trustee for any individual trust created on behalf of a beneficiary, regardless of whether the trust is revocable or irrevocable, has one or more remaindermen or contingent beneficiaries, or any other condition, so long as the individual trust is consistent with the purposes of this act.

C. 3B:11-32 Community trust irrevocable.

14. A community trust for persons with severe chronic disabilities is irrevocable, but the trustees in their sole discretion may provide compensation for any contribution to the trust to any trustor who, upon good cause, withdraws a beneficiary designated by the trustor from the trust, or if it becomes impossible to fulfill the conditions of the trust with regard to an individual beneficiary for reasons other than the death of the beneficiary.

C. 3B:11-33 Not deemed asset.

15. Notwithstanding any other provision of law to the contrary, the beneficiary's interest in any community trust shall not be deemed to be an asset for the purpose of determining income eligibility for any publicly operated program, nor shall that interest be reached in satisfaction of a claim for support and maintenance of the beneficiary. No agency shall reduce the benefits or services available to any individual because that person is the beneficiary of a community trust.

C. 3B:11-34 Not subject to rule against perpetuities.

16. A community trust shall not be subject to or held to be in violation of any principle of law against perpetuities or restraints on alienation or perpetual accumulations of trusts.

C. 3B:11-35 Settlement, dissolution, merger.

17. The board shall settle a community trust by filing a final accounting in the Superior Court. In addition, at any time prior to the settlement of the final account, the board, the Secretary of State, or the Attorney General may bring an action for the dissolu-

tion of a nonprofit corporation in the Superior Court for the purpose of terminating the trust or merging it with another charitable trust.

No trustee or any private individual shall be entitled to share in the distribution of any of the trust assets upon dissolution, merger, or settlement of the community trust. Upon dissolution, merger, or settlement, the Superior Court shall distribute all of the remaining net assets of the community trust in a manner that is consistent with the purposes of this act.

18. This act shall take effect on the 90th day following enactment.

Approved January 13, 1986.

CHAPTER 425

AN ACT to provide that the Glen Gardner Center for Geriatrics shall be redesignated as the Senator Garrett W. Hagedorn Center for Geriatrics, amending R. S. 30:1-7 and supplementing chapter 1 of Title 30 of the Revised Statutes.

WHEREAS, Senator Garrett W. Hagedorn was serving his 18th year as a member of the New Jersey Senate when he passed from this life on August 9, 1985; and

WHEREAS, Throughout his long legislative career Senator Hagedorn continuously demonstrated his concern for and his commitment to the needy of this State; and

WHEREAS, Senator Hagedorn was a member of the Senate Institutions, Health and Welfare Committee, a leading proponent of better mental health care in New Jersey and sought to provide improved health and nursing care to the elderly; and

WHEREAS, Senator Hagedorn was a dedicated public servant and a caring, compassionate man who will be deeply missed by all who knew him and who deserves to be honored and remembered for his work on behalf of the less fortunate; and

WHEREAS, The Glen Gardner Center for Geriatrics, the only facility of its kind in New Jersey, provides outstanding skilled nursing care and medical and psychiatric services to the elderly and is committed to maintaining a high quality of life for its residents; and

WHEREAS, There is no more fitting way to honor the memory of Senator Garrett W. Hagedorn than by redesignating the Glen Gardner Center for Geriatrics as the Senator Garrett W. Hagedorn Center for Geriatrics; now, therefore,

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

1. (New section) The Glen Gardner Center for Geriatrics is redesignated as the Senator Garrett W. Hagedorn Center for Geriatrics.

2. (New section) Whenever reference is made in any law, rule or regulation to the Glen Gardner Center for Geriatrics it shall mean and refer to the Senator Garrett W. Hagedorn Center for Geriatrics.

3. R. S. 30:1-7 is amended to read as follows:

Institutions, agencies covered by Title 30.

30:1-7. The charitable, hospital, relief and training institutions and noninstitutional agencies of this State, within the meaning of this Title, shall include the following, and, as well, any institution established hereafter for any similar purpose, as now established and as the same are to be hereafter maintained and operated pursuant to law:

Trenton Psychiatric Hospital,
Greystone Park Psychiatric Hospital,
Marlboro Psychiatric Hospital,
Ancora Psychiatric Hospital,
Senator Garrett W. Hagedorn Center for Geriatrics,
The Forensic Psychiatric Hospital,
North Princeton Developmental Center,
North Jersey Developmental Center,
New Lisbon Developmental Center,
Woodbine Developmental Center,
Vineland Developmental Center,
Woodbridge Developmental Center,
Hunterdon Developmental Center,
New Jersey Memorial Home for Disabled Soldiers at Menlo Park,
New Jersey Memorial Home for Disabled Soldiers, Sailors,
Marines and their Wives and Widows at Vineland,
Diagnostic Center at Menlo Park,

centerline of New Jersey State Highway Route 23 and Lindsley road; thence running in a southeasterly direction along the centerline of Lindsley road to the boundary line of the township of Little Falls; thence in a northwesterly direction along the boundary line between the township of Little Falls and the township of Cedar Grove to the point of beginning.

3. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 427

AN ACT concerning the access of minorities and women to technical training 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:54D-1 Short title.

1. This act shall be known and may be cited as the "Technical Training for Minorities and Women Act."

C. 18A:54D-2 Findings, declarations.

2. The Legislature finds and declares that:

a. It is the policy of the State of New Jersey that no person shall be denied access to a profession or job on the basis of race, creed, color, national origin, ancestry, marital status or gender.

b. The Division on Civil Rights was created to prevent and eliminate discrimination and the "Division on Women Act of 1974," P. L. 1974, c. 87 (C. 52:27D-43.8 et seq.) calls for "efforts to promote the expansion of rights and opportunities available to the women of this State."

c. Minorities and women are underrepresented in most technical trades and fewer than 3% of the apprentices in New Jersey are female.

d. Action should be taken to increase the access of minorities and women to apprenticeships and other training programs for technical trades.

C. 18A:54D-3 Duties of commissioners.

3. The Commissioners of Education and Labor each shall:

a. Identify the regulations, policies, programs and procedures of their respective departments which relate to apprenticeship programs and other forms of preparation for technical trades;

b. In consultation with the Division on Civil Rights in the Department of Law and Public Safety and the Division on Women in the Department of Community Affairs, identify the factors which have produced low rates of minority and female participation in apprenticeship and other technical training programs;

c. Take appropriate action to encourage a higher rate of minority and female participation in these programs;

d. Advise the Legislature of any additional legislative action which would advance the purposes of this act.

C. 18A:54D-4 Annual reports.

4. Within one year after the effective date of this act, and annually thereafter, the Commissioners of Education and Labor each shall report to the Legislature on the actions taken by their respective departments pursuant to this act and provide to the Legislature the most recent available data on the participation of minorities and women in training programs for technical trades in New Jersey.

5. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 428

AN ACT to amend the "New Jersey State Health Benefits Program Act," approved June 3, 1961 (P. L. 1961, c. 49), as said short title was amended by P. L. 1972, c. 75.

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

1. Section 5 of P. L. 1961, c. 49 (C. 52:14-17.29) is amended to read as follows:

C. 52:14-17.29 State health benefits program.

5. (A) The contract or contracts purchased by the commission pursuant to section 4 shall provide separate coverages or policies as follows:

(1) Basic benefits which shall include:

- (a) Hospital benefits, including outpatient;
- (b) Surgical benefits;
- (c) Inpatient medical benefits;
- (d) Obstetrical benefits;

and

(e) Services rendered by an extended care facility or by a home health agency and for specified medical care visits by a physician during an eligible period of such services, without regard to whether the patient has been hospitalized, to the extent and subject to the conditions and limitations agreed to by the commission and the carrier or carriers.

Basic benefits shall be substantially equivalent to those available on a group remittance basis to employees of the State and their dependents under the subscription contracts of the New Jersey "Blue Cross" and "Blue Shield" plans. Such basic benefits shall include benefits for:

- (i) Additional days of inpatient medical service;
- (ii) Surgery elsewhere than in a hospital;
- (iii) X-ray, radioactive isotope therapy and pathology services;
- (iv) Physical therapy services;
- (v) Radium or radon therapy services;

and the extended basic benefits shall be subject to the same conditions and limitations, applicable to such benefits, as are set forth in "Extended Outpatient Hospital Benefits Rider," Form 1500, 71 (9-66), and in "Extended Benefits Rider" (as amended), Form MS 7050J (9-66) issued by the New Jersey "Blue Cross" and "Blue Shield" plans, respectively, and as the same may be amended or superseded, subject to filing by the Commissioner of Insurance; and

(2) Major medical expense benefits which shall provide benefit payments for reasonable and necessary eligible medical expenses for hospitalization, surgery, medical treatment and other related services and supplies to the extent they are not covered by basic benefits. The commission may, by regulation, determine what types of services and supplies shall be included as "eligible medi-

cal services" under the major medical expense benefits coverage as well as those which shall be excluded from or limited under such coverage. Benefit payments for major medical expense benefits shall be equal to a percentage of the reasonable charges for eligible medical services incurred by a covered employee or an employee's covered dependent during a calendar year as exceed a deductible for such calendar year of \$100.00, subject to the maximums hereinafter provided and to the other terms and conditions authorized by this act. The percentage shall be 80% of the first \$2,000.00 of charges for eligible medical services incurred subsequent to satisfaction of the deductible and 100% thereafter. There shall be a separate deductible for each calendar year for (a) each enrolled employee and (b) all enrolled dependents of such employee. Not more than \$1,000,000.00 shall be paid for major medical expense benefits with respect to any one person for the entire period of such person's coverage under the plan, whether continuous or interrupted, except that this maximum may be reapplied to a covered person in amounts not to exceed \$2,000.00 a year. Maximums of \$10,000.00 per calendar year and \$20,000.00 for the entire period of the person's coverage under the plan shall apply to eligible expenses incurred because of mental illness or functional nervous disorders, and such may be reapplied to a covered person. For retired employees, the maximum lifetime benefit for each person shall be the unused balance of the lifetime maximum remaining while in active service or \$100,000.00, whichever is less, with a minimum benefit of \$5,000.00. Under the conditions agreed upon by the commission and the carriers as set forth in the contract, the deductible for a calendar year may be satisfied in whole or in part by eligible charges incurred during the last three months of the prior calendar year.

Any service determined by regulation of the commission to be an "eligible medical service" under the major medical expense benefits coverage which is performed by a duly licensed practicing psychologist within the lawful scope of his practice shall be recognized for reimbursement under the same conditions as would apply were such service performed by a physician.

(B) Benefits under the contract or contracts purchased as authorized by this act may be subject to such limitations, exclusions, or waiting periods as the commission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under

the laws of the United States, such as the federal Medicare program, or for other reasons.

Benefits under the contract or contracts purchased as authorized by this act shall include those for the treatment of alcoholism, where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the State Health Benefits Commission.

(C) The rates charged for any contract purchased under the authority of this act shall reasonably and equitably reflect the cost of the benefits provided based on principles which in the judgment of the commission are actuarially sound. The rates charged shall be determined by the carrier on accepted group rating principles with due regard to the experience, both past and contemplated, under the contract. The commission shall have the right to particularize subgroups for experience purposes and rates. No increase in rates shall be retroactive.

(D) The initial term of any contract purchased by the commission under the authority of this act shall be for such period to which the commission and the carrier may agree, but permission may be made for automatic renewal in the absence of notice of termination by the commission. Subsequent terms for which any contract may be renewed as herein provided shall each be limited to a period not to exceed one year.

(E) The contract shall contain a provision that if basic benefits or major medical expense benefits of an employee or of an eligible dependent under the contract, after having been in effect for at least one month in the case of basic benefits or at least three months in the case of major medical expense benefits, is terminated, other than by voluntary cancellation of enrollment, there shall be a 31-day period following the effective date of termination during which such employee or dependent may exercise the option to convert, without evidence of good health, to converted coverage issued by the carrier on a direct payment basis. Such converted coverage shall include benefits of the type classified as "basic benefits" or "major medical expense benefits" in subsection (A) hereof and shall be equivalent to the benefits which had been provided when the person was covered as an employee. The provision shall

further stipulate that the employee or dependent exercising the option to convert shall pay the full periodic charges for the converted coverage which shall be subject to such terms and conditions as are normally prescribed by the carrier for this type of coverage.

(F) The commission may purchase a contract or contracts to provide drug prescription and other health care benefits or authorize the purchase of a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement or as may be required to implement a determination by a public employer to provide such benefit or benefits to employees not included in collective negotiations units.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 429

AN ACT concerning notice of revisions or addenda to advertisements for bids or to bid documents and amending P. L. 1971, c. 198.

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

1. 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. 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.

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.

2. This act shall take effect 30 days following enactment.

Approved January 13, 1986.

CHAPTER 430

AN ACT concerning the duties of the Commissioner of the Department of Commerce and Economic Development, amending P. L. 1973, c. 185 and P. L. 1967, c. 106.

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

1. Section 13 of P. L. 1973, c. 185 (C. 13:19-13) is amended to read as follows:

C. 13:19-13 Coastal Area Review Board.

13. There is hereby created the Coastal Area Review Board, in but not of the Department of Environmental Protection, which shall consist of three voting members, who shall be the Commissioner of Environmental Protection or his designated representative, the Commissioner of Commerce and Economic Development or his designated representative and the Commissioner of Community Affairs or his designated representative. No vote on a permit request shall be taken unless all voting members are present.

The Coastal Area Review Board shall have the power to hear appeals from decisions of the commissioner pursuant to section 12 of P. L. 1973, c. 185 (C. 13:19-12). The board may affirm or reverse the decision of the commissioner with respect to applicability of any provision of this act to a proposed use; it may modify any permit granted by the commissioner, grant a permit denied by him, deny a permit granted by him, or confirm his grant of a permit. The board shall review filed applications, including the environmental impact statement and all information presented at public hearings and any other information the commissioner makes available to the board, prior to the affirmation or reversal of a decision of the commissioner.

2. Section 3 of P. L. 1967, c. 106 (C. 26:2C-3.2) is amended to read as follows:

C. 26:2C-3.2 Clean Air Council.

3. (a) There is hereby created in the State Department of Health a Clean Air Council, which shall consist of 17 members, three of whom shall be the Commissioner of Commerce and Economic Development or a member of the Department of Commerce and Economic Development designated by him, the Commissioner of Community Affairs or a member of the Department of Community Affairs designated by him, and the Secretary of Agriculture or a member of the Department of Agriculture designated by him, who shall serve ex officio; six citizens of the State, representing the general public, at least one of whom shall be a medical doctor licensed to practice in this State; and eight members to be appointed from persons to be nominated by the organizations hereinafter enumerated, by the Governor.

(b) Within 30 days following the effective date hereof and thereafter as required, at least one month prior to the expiration of the term of the member chosen from nominees of each organization hereinafter enumerated, each such organization shall submit to

the Governor a list of three recommended nominees for membership on the council, from which list the Governor shall appoint one.

If any organization does not submit a list of recommended nominees at any time required by this act, the Governor may appoint a member of his choice.

The organizations which shall be entitled to submit recommended nominees are: New Jersey Health Officers Association, New Jersey State Chamber of Commerce, New Jersey Society of Professional Engineers, Inc., New Jersey Manufacturers Association, New Jersey Section of the American Industrial Hygiene Association, New Jersey State League of Municipalities, the New Jersey Freeholders' Association and the New Jersey State AFL-CIO.

(c) Of the 14 members first to be appointed, four shall be appointed for terms of one year, four for terms of two years, three for terms of three years and three for terms of four years. Thereafter, all appointments shall be made for terms of four years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council, by expiration of term or otherwise, shall be filled in the same manner as the original appointment, for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid. The Governor may remove any appointed member of the council for cause after a public hearing.

(d) Members of the council shall serve without compensation but shall be reimbursed for expenses actually incurred in attending meetings of the council and in the performance of their duties as members thereof.

(e) The council shall elect annually a chairman and vice-chairman from its own membership.

3. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 431

AN ACT concerning the liability of owners, occupants or lessees of agricultural or horticultural lands 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:42A-6 Limitations on 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 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-7 Liability for dangerous condition.

2. This act shall not limit the liability which would otherwise exist for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity.

3. Section 4 of P. L. 1983, c. 522 is amended to read as follows:

4. This act shall take effect immediately but subsection a. of section 2 shall remain inoperative until the effective date of P. L. 1985, c. 431 (C. 2A:42A-6 et seq.).

Approved January 13, 1986.

CHAPTER 432

AN ACT concerning oil and natural gas drilling operations and supplementing Title 13 of the Revised Statutes.

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

C. 13:1M-1 Findings, declarations.

1. The Legislature finds and declares that the production of oil and natural gas from sources within the State can provide substantial economic benefits to the public and private sectors of this State; that notwithstanding such potential, the exploratory, drilling and extraction operations incident to such production pose significant risks to the public health, safety and welfare, as well as the natural resources of the State; and that a strict regulatory framework is necessary to minimize the potentially adverse impact of oil and natural gas production operations without jeopardizing the benefits.

C. 13:1M-2 Permit to commence operations.

2. Notwithstanding any requirements imposed pursuant to P. L. 1947, c. 377 (C. 58:4A-5 et seq.), or any other law, rule, or regulation, no person shall commence operations incident to the exploration and drilling of wells for oil or natural gas without having received a permit therefor from the Department of Environmental Protection. For the purposes of this act, "natural gas" shall not include methane or other hydrocarbon gases resulting from the decomposition of organic matter in solid waste at any landfill facility. Applications for this permit shall be made on forms prescribed and supplied by the department, and the applicant shall provide, in addition to any other information required by the department, the following:

a. The name and address of the owner, and if a corporation, the name and address of the statutory agent;

b. The signature of the owner or his authorized agent. When an authorized agent signs an application it shall be accompanied by a certified copy of his appointment as such agent;

c. The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

d. The location of the tract or drilling unit on which the well is located or is to be drilled, as identified by municipal tax map by lot and block;

e. Designation of the well by name and number;

f. The geological formation to be tested or used and the proposed total depth of the well;

g. The type of drilling equipment to be used;

h. The name of the New Jersey-licensed well driller or driller who supervises the drilling operations, as required by section 9 of P. L. 1947, c. 377 (C. 58:4A-13);

i. The name and address of the corporate surety and the identifying number of the bond required pursuant to section 5 of this act;

j. A plan for ground and surface water protection, which shall include a method for disposal of water and other waste substances—including brine—resulting, obtained, or produced in connection with the exploration and drilling for oil or natural gas;

k. A plan for casing, which shall include the type, method of installation and depth of installation of each string of casing and shall meet the State requirements for casing size, ASTM specifications, annulus between casing and borehole, and grouting requirements;

l. A plan for handling muds, which shall include specification of their characteristics, use, and testing;

m. A plan for safety, which shall include the installation of a blowout preventer, shut-off valves and other measures to be followed in the drilling of wells for oil or natural gas;

n. A plan for restoration of the land surface disturbed by operations incident to the exploration, drilling, and plugging and abandonment of wells for oil or natural gas, which shall comport with all restoration requirements adopted by the department pursuant to rule or regulation;

o. If the well is for the injection of a liquid, identity of the geological formation to be used as the injection medium and the composition of the liquid to be injected;

p. A sworn statement that the owner has in force, and will maintain until abandonment of any oil or gas well in this State, liability insurance coverage in an amount not less than \$10,000,000.00 for bodily injury and \$10,000,000.00 for property damage, to pay claims arising out of the drilling, operation, or plugging and abandonment of the wells;

q. A sworn statement that all requirements of any municipality having jurisdiction over any activity related to the exploration, drilling and plugging and abandonment of any oil or gas well that have been filed with the department and are in effect at the time the application is filed, including but not limited to zoning ordinances and resolutions, will be complied with;

r. A description, by name or number, of the county, State, and municipal roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site; and

s. A map, on a scale not smaller than four hundred feet to the inch, prepared by a surveyor licensed in New Jersey, showing the location of the well and containing such other data as may be required by the department.

C. 13:1M-3 Written findings required.

3. A permit required by section 2 of this act shall be issued only upon a written finding by the department that the authorized activities will not result in:

- a. Any adverse consequences to groundwater and surface water;
- b. Any significant degradation of landscape;
- c. Any threat to public health and safety; and
- d. Any substantial air and noise pollution.

C. 13:1M-4 Permit fee; display.

4. Each application for the permit required by section 2 of this act, or renewal thereof, shall be accompanied by a fee, established in accordance with a fee schedule adopted by the department by rule or regulation, reflecting the costs of reviewing and processing the application, and monitoring permitted activities as deemed necessary by the department. The permit holder shall submit to the Department of Environmental Protection for approval any transfer or sale of well ownership.

The original permit, or photostatic copy thereof, shall be prominently displayed in a conspicuous location at the well site, together with a document providing the name, current address, and telephone number of the permit holder and the telephone numbers of fire and emergency medical services. The permit or copy and the emergency numbers shall remain prominently displayed at all times during the course of all work authorized or required by the permit.

The department may, by rule or regulation, establish a period of time during which, and the conditions under which, permits will be valid.

Prior to the approval of any permit or amended permit, the department shall provide timely and informative notice of the permit application to the public in the affected area. The public shall be afforded an opportunity to review the permit application. Any public comment submitted to the department shall be made part of the record and considered by the department in determining whether to approve the permit. The department shall hold a public hearing on a permit application upon request by any person.

C. 13:1M-5 Surety bond.

5. As a precondition to the issuance of a permit under section 2 of this act, the applicant shall execute and file with the department a surety bond guaranteeing compliance with all provisions of this act and all rules and regulations adopted pursuant thereto and all provisions and conditions of the permit. The bond shall be in an amount established by rule or regulation by the department. The surety bond required by this section shall be executed by a surety company authorized to do business in this State. The department shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either, by his attorney in fact, with a certified copy of the power of attorney attached thereto. The department shall not approve a bond unless there is attached a certificate of the Commissioner of Insurance that the company is authorized to transact a fidelity and surety business in this State.

All bonds shall be given in a form to be prescribed by the department and shall run to the State as obligee.

C. 13:1M-6 Suspension order.

6. The department may order the immediate suspension of any exploration, drilling, or plugging activities if it finds that the activity poses an imminent danger to public health or safety or results in, or is likely to result in, substantial damage to natural resources. Within five calendar days after the issuance of the order the department shall provide the permittee an opportunity to be heard and to present evidence that the allegedly dangerous condition or activity is not likely to result in substantial damage to natural resources and does not present an imminent danger to public health or safety. After the hearing, the department shall make a final determination.

C. 13:1M-7 Forfeiture of bond.

7. If the department finds that a holder of a permit issued under section 2 of this act has violated a provision or condition of his permit or a rule or regulation adopted pursuant to this act, the department may declare the surety bond filed to guarantee compliance forfeited. The department shall certify the forfeiture to the Attorney General, who shall proceed to collect the amount thereof, and forward it to the department.

Forfeiture moneys shall be expended by the department only to plug wells, to properly restore the land surface as required in section 8 of this act, or to purify contaminated ground or surface water in the event contamination occurs.

C. 13:1M-8 Restoration of surface.

8. A holder of a permit issued under section 2 of this act shall restore, or cause to be restored, the land surface within the area disturbed in siting, drilling and plugging and abandonment of the well, in accordance with rules and regulations adopted by the department.

C. 13:1M-9 Location change.

9. The location of a well drilling operation may be changed after the issuance of a permit under section 2 of this act only with the approval of the department. Requests for a change of location shall be accompanied by an amended application.

Drilling shall not be commenced at a new location until the amended permit, approved by the department, is posted at the well site.

C. 13:1M-10 Report after completion.

10. A person drilling an oil or gas well within this State shall, within 30 days after the conclusion of drilling or after the plugging and abandonment of the well, file with the Department of Environmental Protection in a form and manner prescribed by the department an accurate report designating:

- a. The purpose for which the well was drilled;
- b. The character, depth, and thickness of geological formations encountered, including freshwater, mineral beds, brine and oil and gas bearing formations;
- c. The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, and all other data relating to mudding in the annular space behind the casing or tubing, indicating completion as a dry, gas, oil, combination oil and gas, brine, or artificial brine well; and
- d. The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well.

Upon request in writing by the department prior to the commencement of drilling of the well, the person performing the drilling operation shall make available a complete set of cuttings accurately identified as to depth. The department may, at its discretion, conduct geophysical borehole logs independently of the applicant before plugging a productive well.

C. 13:1M-11 Permit for plugging, abandonment.

11. No person shall plug and abandon an oil or gas well except in accordance with a permit issued therefor by the Department of Environmental Protection pursuant to this section. An application for this permit shall be made on forms prescribed and supplied by the department and shall contain at least the following information:

- a. The name and address of the owner;
- b. The signature of the owner or his authorized agent and when an authorized agent signs an application it shall be accompanied by a certified copy of his appointment as an agent of the owner;
- c. The location of the well, as identified by the municipal tax map by lot and block;
- d. Designation of well by name and number;
- e. The total depth of the well to be plugged;
- f. The date and amount of last production from the well; and
- g. Any other data the department may require.

An application for a permit to plug and abandon a well shall be accompanied by a fee, established in accordance with a fee schedule adopted by the department by rule or regulation, reflecting the costs of reviewing and processing the application. No well plugging or abandonment operation shall commence unless the holder of a permit provides at least five days' notice to the State Geologist, to the owner of the land upon which the well is located, to the owners or agents of adjoining land, and to adjoining well owners or agents of his intention to abandon the well, and of the time when plugging operations will commence.

C. 13:1M-12 Contents of report.

12. Subsequent to the plugging and abandonment of each well, the holder of a permit therefor shall make a written report to the department. The report shall include at least the following:

- a. The date of abandonment;
- b. The name of the owner or operator of the well at the time of abandonment and his post-office address;
- c. The location of the well as to township and county and the name of the owner of the surface upon which the well is drilled, with the address thereof;
- d. The date of the permit to drill;
- e. The date when drilled;

- f. Whether the well has been logged;
- g. The depth of the well;
- h. The depth of the top of the formation to which the well was drilled; and
- i. A report detailing how the well was plugged, and the date of the plugging of the well, including the names of those who witnessed the plugging of the well.

This report shall be signed by the owner or operator agent thereof who abandons and plugs the well and verified by the oath of the party so signing.

C. 13:1M-13 Order to plug well.

13. A well drilled for the production of oil or gas which is incapable of producing oil or gas in commercial quantities shall be plugged unless written permission is granted by the department to do otherwise. If the department finds that a well should be plugged or repaired, it shall notify the permittee to that effect by order in writing and shall specify in the order a reasonable time for compliance.

C. 13:1M-14 Report on producible quantity.

14. Within seven days of determining that the well will yield a commercially producible quantity of oil or natural gas, the holder of a permit issued under section 2 of this act shall file a written report to the department providing, in addition to any other information required by the department, the location and depth of the well, the estimated quantity of oil or natural gas producible from the well and any plans for its extraction.

C. 13:1M-15 Permit for commercial operations.

15. No person shall commence commercial operations to extract or produce oil or natural gas without receiving a permit therefor from the Department of Environmental Protection. The application for this permit shall include information the department deems necessary and shall be accompanied by a fee and other surety as the department may require.

C. 13:1M-16 Rules, regulations.

16. The Department of Environmental Protection, within 180 days of the effective date of this act and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), shall adopt rules and regulations necessary to carry out the purposes of this act.

C. 13:1M-17 Violations; injunctions; penalties.

17. a. If any person violates any of the provisions of this act or any rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent this violation and the court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act is liable to a civil administrative penalty of not more than \$10,000.00 for the first offense, not more than \$20,000.00 for the second offense, and up to \$50,000.00 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues subsequent to receipt of an order to cease the violation constitutes an additional, separate and distinct offense. No civil administrative penalty shall be levied except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalties to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon a 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 upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when 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 a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

c. The department is authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator.

d. Any person who violates this act or an administrative order issued pursuant to subsection b. of this section or a court order issued pursuant to subsection a. of this section or who fails to pay

a civil administrative penalty in full pursuant to subsection b. of this section is subject, upon order of the court, to a civil penalty not to exceed \$10,000.00 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). The Law Division of Superior Court shall have jurisdiction to enforce "the penalty enforcement law."

C. 13:1M-18 County, municipal regulation.

18. a. Nothing in this act shall be construed to supersede or prohibit the adoption, by the governing body of any county or municipality, of any ordinance or resolution regulating or prohibiting the exploration beyond the reconnaissance phase, drilling for and the extraction of oil and natural gas. As used in this section, "reconnaissance" means:

(1) A geologic and mineral resource appraisal of a region by searching and analyzing published literature, aerial photography, and geologic maps;

(2) Use of geophysical, geochemical, and remote sensing techniques that do not involve road building, land clearing or the introduction of chemicals to a land or water area;

(3) Surface geologic, topographic or other mapping and property surveying; or

(4) Sample collections which do not involve excavation or drilling equipment or the introduction of chemicals to land or water area.

b. A municipality or county shall submit a copy of any ordinance or regulation specifically pertaining to activities regulated by this act, or a rule or regulation promulgated pursuant to this act, to the department.

c. The department shall, within 90 days of submittal, approve or disapprove any ordinance or regulation submitted pursuant to subsection b. of this section. An ordinance or regulation shall be disapproved only if the department finds it unreasonable and provides in writing its reasons for the finding. The failure of the department to act within 90 days of submittal shall constitute approval.

d. Nothing in this section shall be construed to limit the authority of a municipality or county or board of health to enact ordinances or regulations of general applicability to all industrial

or commercial activities, including, but not limited to, ordinances and regulations limiting noise, light, and odor.

e. The department shall not approve any ordinance or regulation submitted pursuant to subsection b. of this section which governs activities within the Pinelands area designated in the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A-1 et seq.), unless the Pinelands Commission has approved the ordinance or regulation. The department shall not disapprove an ordinance or regulation, or portion thereof, which has been certified by the Pinelands Commission as consistent with the requirements of the Comprehensive Management Plan as required by the "Pinelands Protection Act."

19. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 433

AN ACT concerning dog sled racing, amending R. S. 4:22-16, supplementing chapter 22 of Title 4 of the Revised Statutes and repealing R. S. 4:22-25.

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

1. R. S. 4:22-16 is amended to read as follows:

Permitted activities.

4:22-16. Nothing contained in this article shall be construed to prohibit or interfere with:

a. Properly conducted scientific experiments performed under the authority of the State Department of Health. That department may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and philanthropic institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;

b. The killing or disposing of an animal or creature by virtue of the order of a constituted authority of the State;

c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;

d. The training or engaging of a dog to accomplish a task or participate in an activity or exhibition designed to develop the physical or mental characteristics of that dog. These activities shall be carried out in accordance with the practices, guidelines or rules established by an organization founded for the purpose of promoting and enhancing working dog activities or exhibitions; in a manner which does not adversely affect the health or safety of the dog; and may include avalanche warning, guide work, obedience work, carting, dispatching, freight racing, packing, sled dog racing, sledding, tracking, and weight pull demonstrations.

C. 4:15-14 Dog sled racing.

2. (New section) An organization created for the purpose of promoting the breeding, care, and training of dogs to draw sleds, carts, or wheel rigs, including the International Sled Dog Racing Association and its affiliates in this State, or other similar association which has been in existence for at least five years and which has been classified as a nonprofit corporation and certified as exempt from the payment of federal income tax by the Internal Revenue Service of the United States Department of the Treasury may conduct or sponsor dog sled races or exhibitions of dog sled racing, carting, weight pull, and freight racing skill with dogs specifically bred and trained for that purpose, in conjunction with the owners thereof. The proper care, humane treatment, and protection of a dog participating in a dog sled race, freight race, weight pull, or carting exhibition shall be the responsibility of its owner and all dog sled races, freight race, weight pull, or carting exhibitions shall be conducted in a manner not inconsistent with the provisions of chapter 22 of Title 4 of the Revised Statutes.

Repealer.

3. R. S. 4:22-25 is repealed.

4. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 434

AN ACT concerning fiduciaries and amending N. J. S. 3B:18-23.

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

1. N. J. S. 3B:18-23 is amended to read as follows:

“Fiduciary” defined.

3B:18-23. As used in this article “fiduciary” means a trustee acting under a will, a nontestamentary trustee as defined in N. J. S. 3B:17-9 or a guardian.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 435

AN ACT concerning the definition of blighted areas and amending
P. L. 1961, c. 40 and P. L. 1965, c. 95.

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

1. Section 6 of P. L. 1961, c. 40 (C. 40:55C-45) is amended to read as follows:

C. 40:55C-45 Definition expanded.

6. “Blighted area” means any section of a municipality which has been determined to be a blighted area by the governing body thereof in accordance with chapter 187 of the laws of 1949 as amended and supplemented, or which has been designated as an enterprise zone pursuant to the “New Jersey Urban Enterprise Zones Act,” P. L. 1983, c. 303 (C. 52:27H-60 et seq.).

2. Section 6 of P. L. 1965, c. 95 (C. 40:55C-82) is amended to read as follows:

C. 40:55C-82 “Blighted area” defined.

6. “Blighted area” defined. “Blighted area” means, any section of a municipality which has been determined to be a blighted area

by the governing body thereof in accordance with chapter 187 of the laws of 1949 as amended and supplemented, or which has been designated as an enterprise zone pursuant to the "New Jersey Urban Enterprise Zones Act," P. L. 1983, c. 303 (C. 52:27H-60 et seq.).

3. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 436

AN ACT concerning the purchase of county law library materials 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, in accordance with tariffs and schedules of charges made, charged or exacted, filed with said board;

(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; or

(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, filmstrips, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or re-binding of law library materials; and specialized library services.

(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 such 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 13, 1986.

CHAPTER 437

AN ACT concerning certain examinations of certain juveniles and amending P. L. 1982, c. 80.

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

1. Section 10 of P. L. 1982, c. 80 (C. 2A:4A-85) is amended to read as follows:

C. 2A:4A-85 Alcoholic, drug-dependent parent.

10. Alcoholic, drug-dependent parent. a. When a petition is filed and as a result of any information supplied on the family situation

by the crisis intervention unit, court intake services has reason to believe that the parent or guardian is an alcoholic, as defined by P. L. 1975, c. 305 (C. 26:2B-8), or a drug-dependent person, as defined by section 2 of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21-2), intake services shall state the basis for this determination and provide recommendations to the court.

b. When, as a result of any information supplied by the crisis intervention unit, court intake services has reason to believe that a juvenile is an "abused or neglected child," as defined in P. L. 1974, c. 119 (C. 9:6-8.21), they shall handle the case pursuant to the procedure set forth in that law. The Division of Youth and Family Services shall, upon disposition of any case originated pursuant to this subsection, notify court intake services as to the nature of the disposition.

c. (1) When, as a result of any information supplied with regard to any juvenile by the crisis intervention unit or from any other source, court intake services has reason to believe that the juvenile may have an auditory or vision problem, intake services shall state the basis for this determination and provide recommendations to the court. Before arriving at its determination, intake services may request the court to order any appropriate school medical records of the juvenile. On the basis of this recommendation or on its own motion, the court may order any juvenile concerning whom a complaint is filed to be examined by a physician, optometrist, audiologist, or speech language pathologist.

(2) Any examination shall be made and the findings submitted to the court within 30 days of the date the order is entered, but this period may be extended by the court for good cause.

(3) Copies of any reports of findings submitted to the court shall be available to counsel for all parties prior to an adjudication of whether or not the juvenile is delinquent.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 438

AN ACT concerning the cost of disposing of certain unclaimed bodies and amending N. J. S. 40A:9-49.

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

1. N. J. S. 40A:9-49 is amended to read as follows:

Payment for burial of unclaimed bodies.

40A:9-49. The county medical examiner upon taking charge of unidentified or unclaimed dead bodies shall make burial arrangements. If the decedent left an ascertainable estate able to pay for the burial, the cost thereof certified by the official in charge shall be payable out of such estate. If the decedent left no ascertainable estate able to pay for the burial, the cost of burial shall be borne:

- a. if the decedent was an adult or emancipated child with surviving spouse, by the surviving spouse,
- b. if the decedent was an unemancipated child with a surviving parent, by the surviving parent, or
- c. if there is no surviving spouse or parent, as applicable, by the county.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 439

AN ACT concerning the appointment of special law enforcement officers, supplementing chapter 14 of Title 40A of the New Jersey Statutes, P. L. 1962, c. 120 (C. 40:37-95.40 et seq.), amending N. J. S. 2C:39-6 and repealing N. J. S. 40A:14-146.

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

C. 40A:14-146.8 Short title.

1. (New section) This act shall be known and may be cited as the "Special Law Enforcement Officers' Act."

C. 40A:14-146.9 Definitions.

2. (New section) As used in this act:

a. "Commission" means the Police Training Commission established in the Department of Law and Public Safety pursuant to section 5 of P. L. 1961, c. 56 (C. 52:17B-70);

b. "Emergency" means any sudden, unexpected or unforeseeable event requiring the immediate use or deployment of law enforcement personnel as shall be determined by the chief of police, or in the absence of the chief, other chief law enforcement officer or the mayor or the mayor's designee to whom the authority of designating an "emergency" has been prescribed by local ordinance. Vacations, shortages in police personnel caused by vacancies unfilled by the appointing authority for more than 60 days, or any other condition which could reasonably have been anticipated or foreseen shall not constitute an "emergency" for the purposes of this act; but an "emergency" may continue for the purposes of this act when a vacancy remains unfilled for more than 60 days and when, on application of the appointing authority, the county prosecutor grants an extension for one or more additional 60 day periods upon a showing by the appointing authority of a diligent, good faith effort to fill the vacancy;

c. "Local unit" means any municipality having established a regular police force pursuant to law;

d. "Population" means the population of the resort municipality shown in the last federal decennial census;

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

f. "Resort municipality" means a municipality which, because of its recreational or entertainment characteristics or facilities or its close proximity of such characteristics or facilities, experiences a substantial increase during the seasonal period in the number of persons visiting or temporarily residing there;

g. "Seasonal period" means any one period of four consecutive months during the calendar year, except with regard to a resort municipality bordering on the Atlantic ocean, in which case, "seasonal period" means one period of six consecutive months during the calendar year;

h. "Special law enforcement officer" means any person appointed pursuant to this act to temporarily or intermittently perform duties similar to those performed regularly by members of a police force

of a local unit, or to provide assistance to a police force during unusual or emergency circumstances, or at individual times or during regular seasonal periods in resort municipalities.

C. 40A:14-146.10 Special law enforcement officers.

3. (New section) a. Any local unit may, as it deems necessary, appoint special law enforcement officers sufficient to perform the duties and responsibilities permitted by local ordinances authorized by N. J. S. 40A:14-118 and within the conditions and limitations as may be established pursuant to this act.

b. No person may be appointed as a special law enforcement officer unless the person:

(1) Is a resident of this State during the term of appointment;

(2) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;

(3) Is sound in body and of good health;

(4) Is of good moral character;

(5) Has not been convicted of any offense involving dishonesty or which would make him unfit to perform the duties of his office;

(6) Has successfully undergone the same psychological testing that is required of all full-time police officers in the municipality or, with regard to a special law enforcement officer hired for a seasonal period by a resort municipality which requires psychological testing of its full-time police officers, has successfully undergone a program of psychological testing approved by the commission.

c. Every applicant for the position of special law enforcement officer appointed pursuant to this act shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

d. No person shall be appointed to serve as a special law enforcement officer in more than one local unit at the same time, nor shall any permanent, regularly appointed full-time police officer of any local unit be appointed as a special law enforcement officer in any local unit. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of the local unit or supervision of the police department of a local unit shall be appointed as a special law enforcement officer.

e. Before any special law enforcement officer is appointed pursuant to this act, the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the appointing authority.

f. Any person who at any time prior to his appointment had served as a duly qualified, fully-trained, full-time officer in any municipality of this State and who was separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with guidelines promulgated by the commission. The training requirements set forth in section 4 of this act may be waived by the commission with regard to any person eligible to be appointed as a special law enforcement officer pursuant to the provisions of this subsection.

C. 40A:14-146.11 Training; classifications.

4. (New section) a. No person may commence his duties as a special law enforcement officer unless he has successfully completed a training course approved by the commission and no special law enforcement officer may be issued a firearm unless he has successfully completed the basic firearms course approved by the commission for permanent, regularly appointed police and annual requalification examinations as required by subsection b. of section 7 of this act. There shall be two classifications for special police officers. The commission shall prescribe by rule or regulation the training standards to be established for each classification. Training may be in a commission approved academy or in any other training program which the commission may determine appropriate. The classifications shall be based upon the duties to be performed by the special law enforcement officer as follows:

(1) Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. If authorized by ordinance, Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.

(2) Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm

by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the commission.

b. The commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that he has successfully completed 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 this act.

c. The commission shall certify officers who have satisfactorily completed training programs and issue appropriate certificates to those officers. The certificate shall clearly state the category of certification for which the officer has been certified by the commission.

d. All special law enforcement officers appointed and in service on the effective date of this act may continue in service if within 24 months of the effective date of this act they will have completed all training and certification requirements of this act.

C. 40A:14-146.12 Uniform.

5. (New section) Every special law enforcement officer prior to the commencement of his duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the local unit in which the officer is employed. The uniform shall also include an insignia issued by the commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued pursuant to section 4 of this act. Within six months following the effective date of this act the commission shall issue the insignia. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia. Nothing in this section shall preclude the designation on an insignia to read either "special police" or "special law enforcement officer."

C. 40A:14-146.13 Fee for equipment, uniforms.

6. (New section) The local unit may charge a reasonable fee as may be fixed by the governing body for equipment and uniforms supplied pursuant to this act, but may not charge a fee for the costs of training or issuing a certificate of appointment. The local unit shall not be required to compensate a special law enforcement officer for time spent in training.

C. 40A:14-146.14 Terms; firearms restrictions.

7. (New section) a. Special law enforcement officers may be appointed for terms not to exceed one year, and the appointments may be revoked by the local unit for cause after adequate hearing, unless the appointment is for four months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the local unit, and their powers and duties as determined pursuant to this act shall cease at the expiration of the term for which appointed.

b. No special law enforcement officer may carry a firearm except while engaged in the actual performance of the officer's official duties and when specifically authorized by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit to carry a firearm and provided that the officer has satisfactorily completed the basic firearms course required by the commission for regular police officers and annual requalification examinations as required for permanent, regularly appointed full-time officers in the local unit. A special law enforcement officer shall be deemed to be on duty only while he is performing the public safety functions on behalf of the local unit pursuant to this act and when he is receiving compensation, if any, from the local unit at the rates or stipends as shall be established by ordinance. A special law enforcement officer shall not be deemed to be on duty for purposes of this act while performing private security duties for private employers, which duties are not assigned by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit, or while receiving compensation for those duties from a private employer. A special law enforcement officer may, however, be assigned by the chief of police or, in the absence of the chief, other chief law enforcement officer, to perform public safety functions for a private entity if the chief of police or other chief law enforcement officer supervises the performance of the public safety functions. If the chief of police or other chief law enforcement officer assigns the public safety duties and supervises the performance of those duties, then, notwithstanding that the local unit is reimbursed for the cost of assigning a special law enforcement officer at a private entity, the special law enforcement officer shall be deemed to be on duty.

Any firearm utilized by a special law enforcement officer shall be returned at the end of the officer's workday to the officer in charge

of the stationhouse, unless the firearm is owned by the special law enforcement officer and was acquired in compliance with a condition of employment established by the local unit. Any special law enforcement officer first appointed after the effective date of this act shall only use a firearm supplied by the local unit.

No such special police officer shall carry a revolver or other similar weapon when off duty; but if any such special police officer appointed by the governing body of any municipality having a population in excess of 300,000, according to the 1980 federal census, who is a resident of the municipality and is employed as a special police officer at least 35 hours per week, or less at the discretion of the chief of police and mayor, shall, at the direction of the chief of police, have taken and successfully completed a firearms training course administered by the Police Training Commission, pursuant to P. L. 1961, c. 56 (C. 52:17B-66 et seq.), and has successfully completed within three years of the effective date of P. L. 1985, c. 45 or three years of the date of appointment of the special police officer, whichever is later, 280 hours of training in arrest, search and seizure, criminal law, and the use of deadly force, and shall annually qualify in the use of a revolver or similar weapon, said special police officer shall be permitted to carry a revolver or other similar weapon when off duty within the municipality where he is employed. Specific authorization shall be in the form of a permit which shall not be unreasonably withheld, which is subject to renewal annually and may be revoked at any time by the chief of police. The permit shall be on the person of the special police officer whenever a revolver or other similar weapon is carried off duty. No permit shall be issued until the special police officer has successfully completed all training courses required under this section. Any training courses completed by a special police officer under the direction of the chief of police in a school and a curriculum approved by the Police Training Commission, pursuant to P. L. 1961, c. 56 (C. 52:17B-66 et seq.), shall be credited towards the 280 hours of training required to be completed by this section. Any training required by this section shall commence within 90 days of the effective date of P. L. 1985, c. 45 or within 90 days of the date of the appointment of the special police officer, whichever is later.

c. A special law enforcement officer shall be under the supervision and direction of the chief of police or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, and shall perform his duties only in the

local unit unless in fresh pursuit of any person pursuant to chapter 156 of Title 2A of the New Jersey Statutes.

d. The officer shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the local unit, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

C. 40A:14-146.15 Powers.

8. (New section) The chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the local unit, including, but not limited to, the carrying of firearms and the power of arrest, subject to rules and regulations, not inconsistent with the certification requirements of this act, as may be established by local ordinance adopted by the appropriate authority of the local unit in which they are employed.

C. 40A:14-146.16 Limitations on hours.

9. (New section) a. Except as provided in subsection c. of this section, no special law enforcement officer may be employed for more than 20 hours per week by the local unit except that special law enforcement officers may be employed by the local unit for those hours as the governing body may determine necessary in accordance with the limits prescribed below:

(1) In resort municipalities not to exceed 48 hours per week during any seasonal period.

(2) In all municipalities without limitation as to hours during periods of emergency.

(3) In all municipalities in addition to not more than 20 hours per week including duties assigned pursuant to the provisions of section 7 of this act a special law enforcement officer may be assigned for not more than 20 hours per week to provide public safety and law enforcement services to a public entity.

(4) In municipalities, as provided in subsection b. of section 7 of this act, for hours to be determined at the discretion of the director of the municipal police force.

b. Notwithstanding any provision of this act to the contrary, special law enforcement officers may be employed only to assist the local law enforcement unit but may not be employed to replace or

substitute for full-time, regular police officers or in any way diminish the number of full-time officers employed by the local unit.

c. Each municipality may designate one special law enforcement officer to whom the limitations on hours employed set forth in subsection a. of this section shall not be applicable.

C. 40A:14-146.17 Limitations on number, categories.

10. (New section) The local governing body shall by ordinance establish limitations upon the number and categories of special law enforcement officers which may be employed by the local unit in accordance with the certification and other requirements provided for in this act. In communities other than resort municipalities, the number of Class Two special law enforcement officers shall not exceed 25% of the total number of regular police officers, except that no municipality shall be required to reduce the number of Class Two special law enforcement officers or the equivalent thereof in the employ of the municipality as of March 1, 1985. Notwithstanding the provisions of this section, each local unit may appoint two Class Two special law enforcement officers.

C. 40A:14-146.18 Residency requirement.

11. (New section) Municipalities may provide by local ordinance that certain or all special law enforcement officers shall be residents of the municipality in which they are employed.

C. 40:37-95.13a County park commissions.

12. (New section) For purposes of P. L. 1985, c. 439 (C. 40A:14-146.8 et seq.), regarding the appointment of special law enforcement officers, county park commissions shall be entitled to act as a local unit as defined in that act.

13. N. J. S. 2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. Exemptions. 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;

(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) A full-time member of the marine patrol force or a special marine patrolman authorized to carry the weapon by the Com-

missioner of Environmental Protection, while in the actual performance of his official duties;

(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, 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.), while going to and from his place of duty and while in the course of performing official duties or while in the course of an official investigation within the State. 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.

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 freshwater 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 pur-

suant 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 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 paragraph.

Repealer.

14. N. J. S. 40A:14-146 is repealed.

15. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 440

AN ACT exempting the sale of certain machinery and equipment used in the manufacture of printed material from the sales and use tax and amending P. L. 1980, c. 105.

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

1. Section 41 of P. L. 1980, c. 105 (C. 54:32B-8.29) is amended to read as follows:

C. 54:32B-8.29 Sales tax exemptions.

41. Receipts from sales of production machinery, apparatus or equipment for use or consumption directly and primarily in the

publication of newspapers in the production departments of a newspaper plant or in the production of tangible personal property for sale by persons engaged in the business of commercial printing, periodical, book, manifold business form, greeting card or miscellaneous publishing and typesetting, photoengraving, electrotyping and stereotyping and lithographic platemaking, including, but not limited to: engraving, enlarging and development equipment, internal process cameras and news and other similar transmission equipment, composing and pressroom apparatus and equipment, binding apparatus and equipment, type fonts, lead, mats, ink, plates, conveyors, stackers, sorting, bundling, stuffing, labeling and wrapping equipment and supplies for any of the foregoing are exempt from the tax imposed under the Sales and Use Tax Act; but sales of motor vehicles, typewriters, and other equipment and supplies otherwise taxable under this act are not exempt.

2. This act shall take effect on the first day of the second month following enactment.

Approved January 13, 1986.

CHAPTER 441

AN ACT authorizing the township of Andover, in the county of Sussex to make permanent the appointment of George Smith to its police department in the classified civil service without taking a civil service test.

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 township of Andover, in the county of Sussex, is authorized to make permanent the appointment of George Smith to its police department in the classified civil service without the necessity of passing a civil service test for that position.

2. This act shall take effect upon due adoption of an ordinance of the township of Andover for the purpose of adopting it.

Approved January 13, 1986.

CHAPTER 442

AN ACT establishing a drunk driving victim's bill of rights and supplementing subtitle 6 of Title 2A of the New Jersey Statutes.

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

C. 39:4-50.9 Short title.

1. This act shall be known and may be cited as the "Drunk Driving Victim's Bill of Rights."

C. 39:4-50.10 "Victim" defined.

2. As used in this act, "victim" means, unless otherwise indicated, a person who suffers personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a motor vehicle accident involving another person's driving while under the influence of drugs or alcohol. In the event of a death, "victim" means the surviving spouse, a child or the next of kin.

C. 39:4-50.11 Victims' rights.

3. Victims shall have the right to:

a. Make statements to law enforcement officers regarding the facts of the motor vehicle accident and to reasonable use of a telephone;

b. Receive medical assistance for injuries resulting from the accident;

c. Contact the investigating officer and see copies of the accident reports and, in the case of a surviving spouse, child or next of kin, the autopsy reports;

d. Be provided by the court adjudicating the offense, upon the request of the victim in writing, with:

(1) Information about their role in the court process;

(2) Timely advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;

(3) Timely notification of the case disposition, including the trial and sentencing;

(4) Prompt notification of any decision or action in the case which results in the defendant's provisional or final release from custody; and

(5) Information about the status of the case at any time from the commission of the offense to final disposition or release of the defendant;

e. Receive, when requested from any law enforcement agency involved with the offense, assistance in obtaining employer cooperation in minimizing loss of pay and other benefits resulting from their participation in the court process;

f. A secure waiting area, after the motor vehicle accident, during investigations, and prior to a court appearance;

g. Submit to the court adjudicating the offense a written or oral statement to be considered in deciding upon sentencing and probation terms. This 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 of earnings or ability to work suffered by the victim and the effect of the offense upon the victim's family.

When a need is demonstrated, the information in this section shall be provided in the Spanish as well as the English language.

C. 39:4-50.12 Consultation with prosecutor.

4. A victim shall be provided with an opportunity to consult with the prosecutor prior to dismissal of the case or the filing of a proposed plea negotiation with the court, if the victim sustained bodily injury or serious bodily injury as defined in N. J. S. 2C:11-1. Nothing contained herein shall be construed to alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate.

C. 39:4-50.13 Tort Claims Act rights.

5. Nothing contained in the act shall mitigate any right which the victim may have pursuant to the "New Jersey Tort Claims Act" (N. J. S. 59:1-1 et seq.).

6. This act shall take effect on the 60th day after enactment.

Approved January 13, 1986.

CHAPTER 443

AN ACT concerning the licensing of certain bottlers of nonalcoholic drinks and amending R. S. 24:12-5.

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

1. R. S. 24:12-5 is amended to read as follows:

Licensing of wholesale bottlers.

24:12-5. No person engaged in the business of bottling water for drinking purposes, or of bottling any nonalcoholic drink within this State for sale at wholesale, shall sell or deliver any such water or nonalcoholic drink without first obtaining a license from the State department authorizing him to engage in the business of bottling water for drinking purposes or of bottling any nonalcoholic drink. A fee of \$50.00 shall be charged for any license so issued.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 444

AN ACT concerning assault upon the institutionalized elderly and amending N. J. S. 2C:12-1.

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

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

Assault.

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

- (1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or
- (2) Negligently causes bodily injury to another with a deadly weapon; or

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

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

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

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

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

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

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

(5) Commits a simple assault as defined in subsection a. (1) 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.

Aggravated assault under subsection b. (1) is a crime of the second degree; under subsection b. (2) 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 when the person drives a vehicle recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

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.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 445

AN ACT concerning the nomination of county employee members to certain pension commissions and amending P. L. 1943, c. 160.

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

1. Section 3 of P. L. 1943, c. 160 (C. 43:10-18.3) is amended to read as follows:

C. 43:10-18.3 County pension commission.

3. There shall be authorized to carry out the provisions of this act and charged with the duty of administering the pension fund herein provided for, a pension commission composed of five members, consisting of the county supervisor or similar officer of the county, the treasurer of the county, two county employees who are members of the pension fund, and a citizen of the county who is not a public office holder in the county or any municipality therein and who shall be selected by the other four members of the commission. The two county employee members of the pension commission shall be elected within 60 days after the passage of this act at a meeting held by the county employees affected by this act after 30 days'

written notice of the time and place thereof has been given by the county supervisor or similar county officer to all such employees. Nominations shall be made only by written petitions filed with the secretary of the pension commission at least 15 days prior to such election and each containing the signatures of at least 10% of the county employees who are active members of the pension fund on the date written notice of the time and date of the election is provided to county employee members. The county supervisor shall provide a suitable method of balloting whereby secrecy shall be assured. Ballots shall be distributed among the county employees affected by this act at least seven days prior to the election and the voted ballots shall be returned to the secretary of the pension commission at any time prior to 12 noon of the day fixed for the holding of the meeting and election. Employees who become members of the retirement system created by this act or who are members of any of the county employees' retirement systems referred to in section 7 of this act and merged thereunder shall be eligible to participate in such nomination and election of the two county employee members of the pension commission. The two county employees shall hold office until their successors are elected in the same manner as aforesaid at a meeting of the employees held on the third Wednesday of December of the second year following the adoption of this act. Thereafter two county employees shall be elected as members of the pension commission, in the same manner, on the third Wednesday of December every second year, for a term of two years commencing January 1 following their election.

In case of vacancy for any cause, the commission may fill it until the next election. Any member of said pension commission who shall leave the service of the county shall automatically cease to be a member of said commission.

The commission shall hold its annual meeting between January 1 and 15 in each year and elect its president and such other officers as it deems advisable. The commission shall serve without compensation, but shall be reimbursed for any necessary expenditures and shall suffer no loss of salary or other wages through service on such commission. The treasurer of the county, who shall be treasurer of the commission, shall appoint the secretary of this commission, who shall be some person chosen by him from among persons employed by such county who is versed in the affairs of the said treasurer's office and said treasurer shall fix the compensation of such appointee, subject to approval of the board of

chosen freeholders. The commission shall secure the services of such physicians as shall be necessary to make the medical examinations required by this act.

The chief legal officer of the county shall be the legal adviser of and attorney for the said pension commission.

The pension commission shall have control and management of the funds and of the retirement of the county employees. The commission shall, from time to time, subject to the limitations of this act, establish rules and regulations for the transaction of its business and the administration of this act. Under the direction of the pension commission, the head of each county department shall furnish such information and shall keep such records as the commission may require for the discharge of its duties.

The pension commission may require each employee of the county to file a statement or statements, in such form as the said commission shall direct, concerning his service or other matters covered by this act.

The pension commission shall appoint an actuary, who shall be the technical adviser of the commission on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection therewith.

The commission shall have power to compel witnesses to attend and testify before it upon any matter concerning the retirement system and allow fees not in excess of \$3.00 to any such witness for such attendance upon any one day. The president and other members of the said pension commission are empowered to administer oaths to such witnesses. All retirements shall be made and pensions allowed by the pension commission in accordance with the provisions of this act.

The pension commission shall be known as the "Pension Commission of the Employees' Retirement System of (name of county)."

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 446

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

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

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices relating to such election were not published as required by the provisions of the "Absentee Voting Law (1953)," P. L. 1953, c. 211 (C. 19:57-1 et seq.), as amended and supplemented, and notwithstanding that an elections clerk did not sign the statement of results for such election as required by the provisions of N. J. S. 18A:14-61; provided, however, that any applications received by the secretary of the board of education of the school district for military service ballots or civilian absentee ballots for such election were forwarded to the clerk of the county in which such school district is located; and provided further that notices of such election were posted prior to the election as required by N. J. S. 18A:14-19; and provided further that all other election officers signed the statement of results for the election as required by N. J. S. 18A:14-61; and provided further that no action, suit or other proceedings of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 13, 1986.

CHAPTER 447

AN ACT requiring superintendents of State correctional facilities and wardens or keepers of county penal institutions, or their designees, to notify local police departments of escapes from confinement of prisoners.

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

C. 30:4-116.1 Notification of escape.

1. Any superintendent, or his designee, of any facility under the control of the Department of Corrections or warden or keeper, or his designee, of a county penal institution from which a prisoner escapes from confinement shall notify the local police department of the municipality in which the facility or institution is located of the escape. Notification shall be made within one hour of the time an escape is discovered.

2. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 448

AN ACT authorizing the director, president or chairperson of the board of chosen freeholders in any county to designate another freeholder to serve in his place on various county boards, and supplementing Title 40 of the Revised Statutes.

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

C. 40:20-71.1 Designation of another freeholder.

1. Whenever the director, president or chairperson, as the case may be, of the board of chosen freeholders in any county is specified as a member of any county board, such as the county planning board or county welfare board, he may designate another member of the board of chosen freeholders to serve in his place. The term

of the designated member of the board shall expire with his term as freeholder, with the term, as presiding member, of the director, president or chairperson, as the case may be, of the board of chosen freeholders appointing him or with the term specified by law for the position filled pursuant to this act, whichever occurs first.

C. 40:20-71.2 Appointments by county executive.

2. Nothing in this act shall be construed to modify the authority of any county executive to make any appointment to any county board.

3. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 449

AN ACT concerning participation in the New Jersey State Employees Deferred Compensation Plan and amending P. L. 1978, c. 39.

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

1. Section 12 of P. L. 1978, c. 39 (C. 52:18A-174) is amended to read as follows:

C. 52:18A-174 Deferred compensation plan expanded.

12. Subject to the independent approval of the State Treasurer, the board may authorize the transfer of funds necessary to permit individuals employed at the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology, Rutgers, The State University, and any other agency, authority, commission, or instrumentality of State government which has an independent corporate existence, to participate in the plan.

2. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 450

AN ACT authorizing the purchase of service credit in the Police and Firemen's Retirement System of New Jersey for certain periods of service with public agencies or private, nonprofit organizations, and supplementing P. L. 1944, c. 255 (C. 43:16A-1 et seq.).

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

C. 43:16A-11.9 Purchase of retirement system credit.

1. Any member of the Police and Firemen's Retirement System of New Jersey who has at least 20 years of creditable service in the retirement system and who leaves a position covered by the retirement system, with the approval of the employer, to take a full-time position with a. a federal agency, b. an agency of another state or local government thereof, c. a national, regional, statewide, areawide or metropolitan organization representing member state or local governments, d. an association of state or local public officials, or e. a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, educational or development services, or related services, to governments or universities concerned with public management, may, upon filing an application with the board of trustees of the retirement system, purchase credit in the retirement system for all or a portion of the time of service with the public agency or private organization, but not exceeding three years, as provided in this act.

The member may purchase credit for the service by paying into the annuity savings fund the amount determined by applying the factor, supplied by the actuary, applicable to his age at the time of the purchase, to his creditable salary in the last 12 months of creditable service in the position covered by the retirement system immediately preceding the service with the public agency or private organization. The purchase may be made in regular monthly installments or in a lump sum as the member may elect and pursuant to rules and regulations as may be promulgated by the Division of Pensions. The member shall bear the entire cost for the additional retirement benefit attributable to the purchased credit. If, upon retirement, the member's payment for purchase of the

credit is insufficient to provide for the additional retirement benefit attributable to the service, the difference may be assessed to the member, or a pro rata credit may be granted based on service purchased prior to the date of retirement, at the election of the member.

If the member retires prior to completing the purchase, he will receive pro rata credit for service purchased prior to the date of retirement, unless he makes an additional lump sum payment at that time as will be necessary to provide full credit.

The purchase may be made within four years of the date of the member's last contribution to the retirement system in the covered position immediately preceding the service with the public agency or private organization.

2. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 451

AN ACT extending the duration of the New Jersey Commission on Hunger and amending P. L. 1984, c. 36.

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

1. Section 6 of P. L. 1984, c. 36 is amended to read as follows:

6. The commission may meet and hold hearings at such places as it shall designate during the sessions or recesses of the Legislature, and shall report its findings and recommendations to the Governor and the Legislature by June 30, 1986, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

2. Section 8 of P. L. 1984, c. 36 is amended to read as follows:

8. This act shall take effect immediately and expire June 30, 1986.

3. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 452

AN ACT concerning certain contracts for the disposal of sewage sludge, amending P. L. 1971, c. 198, R. S. 58:14-22, and R. S. 40:63-95.

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

1. Section 10 of P. L. 1971, c. 198 (C. 40A:11-10) is amended to read as follows:

C. 40A:11-10 Joint agreements for purchase of work, materials, supplies; authorization.

10. Joint agreements for purchase of work, materials, supplies; authorization.

(a) (1) The governing bodies of two or more contracting units within the same county, or adjoining counties, may provide by joint agreement for the purchase of work, materials and supplies for use by their respective jurisdictions.

(2) The governing bodies of two or more contracting units providing sewerage services pursuant to the "sewerage authorities law," P. L. 1946, c. 138 (C. 40:14A-1 et seq.), the "municipal and county utilities authorities law," P. L. 1957, c. 183 (C. 40:14B-1 et seq.), R. S. 58:14-1 et seq. or R. S. 40:63-68 et seq. may provide by joint agreement for the purchase of work related to sewage sludge disposal.

(b) The governing body of any county or municipality may provide by joint agreement with the board of education of any school district located wholly or partially within the geographic boundaries of the county or municipality for the purchase of work, materials and supplies for use by their respective jurisdictions.

(c) Such agreement shall be entered into by resolution or ordinance, as the case may be, adopted by each of the participating bodies and boards, which shall set forth the categories of work, materials and supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating body and board, and other matters deemed necessary to carry out the purposes of the agreement.

(d) Each participating body's and board's share of expenditures for purchases under any such agreement shall be appropriated and

paid in the manner set forth in the agreement and in the same manner as for other expenses of the participating body and board.

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

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

15. 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, 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;

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

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

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and

regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

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

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

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

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

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

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

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

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

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P. L. 1985, c. 37 (C. 58:26-1 et seq.). For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not

to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P. L. 1970, c. 39 (C. 13:1E-1 et seq.). For the purposes of this subsection, "resource recovery 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.

All multi-year leases and contracts entered into pursuant to this section 15, 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 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, or contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

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

3. R. S. 58:14-22 is amended to read as follows:

\$7,500 bid threshold.

58:14-22. a. Whenever any work to be performed or any material to be furnished shall involve an expenditure of money exceeding the sum of \$7,500.00 or, after June 30, 1985, the amount determined pursuant to subsection b. of this section, the commissioners shall designate the time when they will meet at their usual place of meeting to receive proposals in writing for doing the work and furnishing the material, and the commissioners shall order their clerk to give notice by advertisement, inserted in at least two newspapers printed and circulating, respectively, in two of the counties of the district, at least 10 days before the time of such

meeting, of the work to be done and the material to be furnished, particular specifications of which they shall cause to be filed in their office at the time of such order. All proposals received shall be publicly opened by the commissioners or the chief administrative officer of the commission and the commissioners shall award the contract to the lowest responsible bidder. All contractors shall be required to give bond satisfactory in amount and security to the commissioners.

b. Commencing January 1, 1985, the Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985, the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and Philadelphia areas, as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the commissioners about the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

c. Nothing in this act shall prohibit the commissioners from entering into a joint agreement pursuant to section 10 of P. L. 1971, c. 198 (C. 40A:11-10) for the purchase of work related to sewage sludge disposal. All such agreements shall be entered into by resolution of the commissioners and shall be subject to the requirements of P. L. 1971, c. 198 (C. 40A:11-1 et seq.).

4. R. S. 40:63-95 is amended to read as follows:

\$2,500 bid threshold.

40:63-95. Whenever any work to be performed or materials to be furnished in or about any improvement or works to be made under the provisions of this article shall involve an expenditure of a sum of money exceeding \$2,500.00, the municipal bodies or boards of the contracting municipalities, by their official action taken in joint meeting as herein provided, shall designate a time when they will meet at their usual place of meeting to receive proposals in writing, for doing the work or furnishing the materials, and such joint meeting shall order the chairman and secretary thereof to give notice by advertisement inserted in one or more newspapers circulating in one or more of the contracting municipalities in each county in which the contracting municipalities are situate, at least 10 days before the time of such meeting, of the work to be done or materials to be furnished, of which at

the time of such order they shall cause to be filed in the office of such joint meeting particular specifications. Not more than one proposal shall be received from any one person, directly or indirectly, for the same contract, work, or materials, and all proposals received shall be publicly opened by the chairman in the presence and during a session of such joint meeting, and of all others who choose to attend the meeting. The joint meeting may reject any and all proposals and direct its chairman and secretary to advertise for new proposals and accept such as shall, in the opinion of a majority of the municipalities represented in the joint meeting, be deemed most advantageous for the municipalities.

The proposal so accepted shall be reduced to a contract in writing, and a satisfactory bond to be approved by the joint meeting shall be required and given for its faithful performance, but all contracts when awarded shall be awarded to the lowest responsible bidder offering satisfactory security.

This section shall not prevent the joint meeting from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or to the hiring of teams or vehicles, when the safety or protection of public property or the public convenience requires, or the exigency of the public service will not admit of such advertisement. In such case, however, the joint meeting shall, by resolution, passed by the affirmative vote of four-fifths of all the contracting municipalities represented in such joint meeting, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

This section shall not apply to any engineer or agent of the jointly contracting municipalities engaged in supervising or directing the work of the improvement.

Nothing in this section shall prohibit the joint meeting from entering into a joint agreement pursuant to section 10 of P. L. 1971, c. 198 (C. 40A:11-10) for the purchase of work related to sewage sludge disposal. All such agreements shall be entered into by resolution of the joint meeting and shall be subject to the requirements of P. L. 1971, c. 198 (C. 40A:11-1 et seq.).

5. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 453

AN ACT concerning the composition of the Superior Court and amending N. J. S. 2A:2-1.

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

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

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 336 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	7
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	18
Hunterdon	2
Mercer	8
Middlesex	18
Monmouth	12
Morris	11
Ocean	12
Passaic	14
Salem	2
Somerset	6
Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the

number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. This act shall take effect immediately.

Approved January 14, 1986.

CHAPTER 454

AN ACT concerning the purchase of prior service credit in the Teachers' Pension and Annuity Fund, and amending N. J. S. 18A:66-13.

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

1. N. J. S. 18A:66-13 is amended to read as follows:

Prior service credit.

18A:66-13. Prior service credit. A member may file a detailed statement of school service and service in a similar capacity in other states and in schools outside the United States operated by a department of the United States Government for the instruction of the children of United States Government officers and employees rendered by him prior to becoming a member for which he desires credit and on account of which he desires to contribute, and of such other facts as the retirement system may require. He shall have the right to purchase credit for the prior service evidenced therein, up to the nearest number of years and months, but not exceeding 10 years. No application shall be accepted after January 1, 1956, for the purchase of credit for such prior service, however, if, at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon that service.

He may purchase credit for such service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase to his salary at that time. Such purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system, over a maximum period of 10 years.

Any member electing to contribute toward such service, who retires prior to completing payments as agreed with the retirement system for the purchase of such service 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 such additional lump sum payment at that time as will be necessary to provide full credit.

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 455

AN ACT concerning the auditing of sanitary landfill closure accounts, and amending P. L. 1981, c. 306.

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

1. Section 11 of P. L. 1981, c. 306 (C. 13:1E-110) is amended to read as follows:

C. 13:1E-110 Landfill closure account audits.

11. a. Every owner or operator of a sanitary landfill facility which accepts more than 10,000 tons of solid waste per year, or whose escrow account balance is in excess of \$100,000.00, shall file with the department an annual audit of the escrow account established for the closure of the facility pursuant to this supplementary act. The audit shall be conducted by a certified public accountant, a registered municipal accountant, or a registered public accountant, and shall be filed no later than October 31 of each year.

b. Any moneys remaining in the escrow account of any sanitary landfill facility subsequent to the proper and complete closure thereof, as determined by the department, shall be paid by the owner or operator thereof into the fund.

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 456

AN ACT appropriating funds from the "Natural Resources Fund" for the purposes of planning, designing, acquiring, and constructing sewage treatment facilities; and providing for procedures relating to the expenditure of these funds.

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 "National Resources Fund," created pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70), the sum of \$3,295,909.00 for the purposes of providing full 8% grants to the following authorities and municipalities for approved local sewerage project costs which qualify for federal assistance, pursuant to the provisions of the "Sewerage Facilities Aid Program," sections 11-20 of P. L. 1979, c. 321 (C. 58:25-1 through 58:25-10):

Federal I.D. Number	Municipality or Authority	Amount of State Grant
369-02	Passaic Valley Sewerage Commissioners	\$955,908
461-01	Landis S.A.	33,254
340-02	Joint Meeting — Essex and Union Counties	212,503
251-01	Mount Holly S.A.	346,277
449-01	Sussex County M.U.A.	3,455
386-01	Bergen County U.A.	123,278
389-01	Rockaway Valley Regional S.A.	2,961
492-01	Lacey M.U.A.	4,651
435-01	Perth Amboy City	902
550-01	Cumberland County U.A.	2,850
585-02	Stafford M.U.A.	2,723
529-01	Somerset County Board of Chosen Freeholders	3,007
391-04	Ewing-Lawrence S.A.	7,613
386-01	Bergen County U.A.	13,360
399-01	Hudson County U.A.	47,751

Federal I.D. Number	Municipality or Authority	Amount of State Grant
405-01	Atlantic County U.A.	11,149
406-02	Sussex County M.U.A.	15,144
409-01	Mount Laurel Township M.U.A.	11,788
458-01	Bernards Township S.A.	17,283
459-01	Pequanock River Regional S.A.	8,208
479-01	Point Pleasant Borough	7,999
524-01	Camden County M.U.A.	10,040
542-03	Ocean Gate Borough	11,533
580-01	Warren County M.U.A.	5,515
590-01	Bay Head Borough	10,682
622-01	Wall Township	1,100
639-01	Ridgewood Village	7,778
640-01	Camden County M.U.A.	6,680
660-01	Cape May County M.U.A.	1,503
678-01	Camden County M.U.A.	10,194
685-02	Middletown Township S.A.	1,159
539-01	Hanover S.A.	2,094
502-01	Penns Grove S.A.	2,107
710-01	Moorestown Township	2,949
536-02	Upper Millstone Water Management Study Group	4,024
704-01	Stony Brook Regional S.A.	4,170
585-02	Stafford M.U.A.	1,159
527-01	Lambertville S.A.	1,421
388-01	Hanover S.A.	2,000
460-01	Totowa-West Paterson S.A.	61,709
372-03	Ocean County U.A.	18,960
383-02	Hamilton Township	22,473
390-02	Wanaque Valley Regional S.A.	10,903
391-04	Ewing-Lawrence S.A.	16,664
399-01	Hudson County U.A.	10,934
405-01	Atlantic County U.A.	23,825
518-01	Atlantic County U.A.	13,917
678-01	Camden County M.U.A.	30,605
680-02	Middlesex County U.A.	4,521
712-01	Burlington Township	2,605
372-01	Ocean County U.A.	8,005
387-05	Cape May County M.U.A.	6,439
389-02	Rockaway Valley Regional S.A.	3,361

Federal I.D. Number	Municipality or Authority	Amount of State Grant
607-01	Northern Burlington Regional S.A.	3,917
463-01	Evesham M.U.A.	8,451
389-02	Rockaway Valley Regional S.A.	4,849
503-01	Sussex County M.U.A.	1,610
526-01	Gloucester County U.A.	43,584
384-01	Musconetcong S.A.	13,833
567-01	Allentown Borough	1,190
712-01	Burlington Township	2,178
475-01	Watchung Borough	39,044
490-01	West Windsor Township	19,273
448-01	Brick Township M.U.A.	7,363
453-01	Warren County M.U.A.	336
463-01	Evesham M.U.A.	11,611
755-01	Willingboro M.U.A.	2,180
405-01	Atlantic County U.A.	16,257
412-01	Ocean Township S.A.	10,894
459-02	Pequannock River Regional S.A.	7,078
485-01	Raritan Township M.U.A.	20,956
524-01	Camden County M.U.A.	58,822
519-01	Atlantic Highlands-Highlands S.A.	7,111
628-01	Woodstown S.A.	612
680-01	Middlesex County U.A.	11,451
369-01	Passaic Valley Sewerage Commissioners	32,972
545-01	Glassboro Borough	2,605
344-01	Atlantic County U.A.	45,041
638-01	Bridgewater Township	4,590
509-01	Lebanon Borough	15,608
714-01	Ocean County U.A.	44,935
371-02	Ocean County U.A.	2,311
390-02	Wanaque Valley Regional S.A.	18,503
344-01	Atlantic County U.A.	131,172
384-01	Musconetcong S.A.	2,030
389-02	Rockaway Valley Regional S.A.	4,563
391-02	Ewing-Lawrence S.A.	26,041
409-01	Mount Laurel Township M.U.A.	7,968
463-01	Evesham M.U.A.	1,104
466-02	Denville Township	681
567-01	Allentown Borough	5,122

Federal I.D. Number	Municipality or Authority	Amount of State Grant
583-01	Keansburg M.U.A.	1,122
589-01	Eagleswood Township	1,613
648-01	Hopewell Township M.U.A.	534
738-01	Wyckoff Township	3,204
495-01	Sparta Township	2,894
336-01	Long Branch S.A.	10,621
416-01	Trenton City	9,728
416-09	Trenton City	2,974
466-01	Denville Township	994
486-02	North Haledon Borough	15,878
580-01	Warren County M.U.A.	791
585-02	Stafford Township M.U.A.	2,094
598-01	Cape May Point Borough	560
607-01	Northern Burlington County Regional S.A.	4,774
703-02	Florham Park S.A.	22,426
808-01	Bass River Township	480
461-01	Landis S.A.	54,545
381-01	Roxbury Township	9,600
449-01	Sussex County M.U.A.	1,168
505-01	Pine Beach Borough	724
712-01	Burlington Township	4,276
755-01	Willingboro M.U.A.	6,872
710-01	Moorestown Township	6,967
371-02	Ocean County U.A.	2,319
386-01	Bergen County U.A.	69,119
387-01	Cape May County M.U.A.	145,774
387-04	Cape May County M.U.A.	52,358
393-02	Wayne Township	3,296
406-02	Sussex County M.U.A.	7,587
424-01	Bergen County U.A.	22,506
443-01	Edgewater Borough	8,286
542-02	Ocean Gate Borough	100
579-01	Little Egg Harbor M.U.A.	1,135
660-01	Cape May County M.U.A.	7,650
661-01	Cape May County M.U.A.	6,040
686-01	Joint Meeting—Essex and Union Counties	2,830
714-01	Ocean County U.A.	4,936
685-02	Middletown Township S.A.	3,348

Federal I.D. Number	Municipality or Authority	Amount of State Grant
426-01	North Arlington-Lyndhurst Joint Meeting	2,847
		<hr/> \$3,295,909

2. There is appropriated to the Department of Environmental Protection from the "Natural Resources Fund," created pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70), the sum of \$2,888,554.00 for the purposes of providing grants to the following authorities and municipalities in the amount of 8% of the local sewerage project costs which qualify for federal assistance, pursuant to the provisions of the "Sewerage Facilities Aid Program," sections 11-20 of P. L. 1979, c. 321 (C. 58:25-1 through 58:25-10):

Federal I.D. Number	Municipality or Authority	Amount of State Grant
386-07	Bergen County U.A.	\$618,943
519-02	Atlantic Highlands-Highlands S.A.	80,641
389-03	Rockaway Valley Regional S.A.	1,181,889
437-01	New Brunswick City	13,877
461-03	Landis S.A.	121,867
505-03	Pine Beach Borough	235,028
583-02	Keansburg M.U.A.	636,309
		<hr/> \$2,888,554

3. There is appropriated to the Department of Environmental Protection from the "Natural Resources Fund," created pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70), the sum of \$964,480.00 for the purpose of providing an 8% State grant to the Gloucester County Utilities Authority to match Farmers' Home Administration funds for construction of wastewater treatment facilities. The State grant is conditioned upon the construction of conveyance facilities to eliminate the Harmony Acres treatment facility in East Greenwich Township.

4. In order to provide flexibility in administering this act directing utilization of moneys from the "National Resources Fund," the Commissioner of the Department of Environmental Protection may apply to the Director of the Division of Budget and Account-

ing for permission to transfer a part of any item to any other item in the appropriation. Upon approval of an application by the director and by the Subcommittee on Transfers of the Joint Appropriations Committee or its successor, in writing, the director shall make the transfer.

5. The funds directed to be utilized pursuant to this act are subject to the provisions and conditions of the "Sewerage Facilities Aid Program," sections 11-20 of P. L. 1979, c. 321 (C. 58:25-1 through 58:25-10) and P. L. 1980, c. 70.

6. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 457

AN ACT concerning legal defense for members or officers of a municipal police department and amending N. J. S. 40A:14-155.

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

1. N. J. S. 40A:14-155 is amended to read as follows:

Legal expenses of police officers.

40A:14-155. Whenever a member or officer of a municipal police department or force is a defendant in any action or legal proceeding arising out of and directly related to the lawful exercise of police powers in the furtherance of his official duties, the governing body of the municipality shall provide said member or officer with necessary means for the defense of such action or proceeding, but not for his defense in a disciplinary proceeding instituted against him by the municipality or in criminal proceeding instituted as a result of a complaint on behalf of the municipality. If any such disciplinary or criminal proceeding instituted by or on complaint of the municipality shall be dismissed or finally determined in favor of the member or officer, he shall be reimbursed for the expense of his defense.

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 458

AN ACT concerning the “mayor-council-administrator plan” of municipal government and amending and supplementing P. L. 1981, c. 465.

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

1. Section 36 (16A-8) of P. L. 1981, c. 465 (C. 40:69A-149.8) is amended to read as follows:

C. 40:69A-149.8 Mayoral appointments; municipal departments.

16A-8. a. The mayor shall nominate, and with the advice and consent of the council appoint, a municipal administrator, an assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance. Except where otherwise prohibited by general law, one person may be appointed to two or more such offices, except that one person shall not be simultaneously the assessor and treasurer, or assessor and collector. All such officers shall be annually appointed unless another term is provided by this article or by general law.

b. The municipality may provide by ordinance for the establishment of municipal departments, not to exceed six in number. Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of a successor. The mayor may remove any department head upon written notice to the council. The council may remove department heads for cause after hearing.

The municipal administrator shall supervise the administration of each of the departments established by ordinance. For this purpose, the municipal administrator shall have the power to investigate the organization and operations of any department, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of departments.

2. Section 36 (16A-9) of P. L. 1981, c. 465 (C. 40:69A-149.9) is amended to read as follows:

C. 40:69A-149.9 Municipal administrator.

16A-9. The municipal administrator shall administer the business affairs of the municipality and shall, as provided by ordinance, have such powers and perform such duties which are not required by this article or general law to be exercised by the mayor, council or other officer, board or body. The administrator shall receive such compensation as may be provided by ordinance. The municipal administrator shall serve during the term of office of the mayor, but may be removed by a vote of at least two-thirds of the members of the council. The resolution of removal shall become effective three months after its adoption. The council may provide that the resolution shall have immediate effect, but in that case the council shall cause to be paid to the administrator forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17-14, 17-15, 17-16, 17-17 or 17-18 of P. L. 1950, c. 210 (C. 40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

C. 40:69A-149.8a Ordinances validated.

3. (New Section) Any ordinance heretofore adopted by a municipality governed by section 36 of P. L. 1981, c. 465 (C. 40:69A-149.1 through 40:69A-149.16) which provides for the establishment of municipal departments, and any actions taken by a municipality pursuant to that ordinance, are validated and confirmed; provided, that the ordinance shall be amended to conform with the provisions of this amendatory and supplementary act within 90 days after its effective date.

4. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 459

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there is appropriated from the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
50 DEPARTMENT OF HIGHER EDUCATION	
30 Educational, Cultural and Intellectual Development	
36 Higher Educational Services	
5620 Agricultural Experiment Station	
12-5620 Sponsored Programs and	
Research	\$175,000
Special Purpose:	
To establish an Integrated Pest	
Management program	(\$175,000)

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 460

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
DEPARTMENT OF ENVIRONMENTAL PROTECTION	
40 Community Development and Environmental Management	
45 Recreational Resource Management	
12-4875 Parks Management	\$63,000

Special purpose:

Natural Lands Trust (\$63,000)

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 461

AN ACT concerning the liability of certain persons performing hazardous discharge mitigation or cleanup services, and supplementing P. L. 1976, c. 141 (C. 58:10-23.11 et seq.).

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

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 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 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 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.

2. This act shall take effect immediately and shall apply to contracts for hazardous discharge mitigation or cleanup services entered into prior to the effective date of this act and still in process on the effective date of this act and to contracts entered into on the effective date of this act.

Approved January 15, 1986.

CHAPTER 462

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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 for the purposes specified:

FEDERAL FUNDS

DEPARTMENT OF EDUCATION

Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance

07-5065	Special Education Programs	\$299,000
	Services Other Than Personal	(\$ 12,000)

Special Purpose:

Services to Deaf/Blind Children grant—

Indirect costs	(1,000)
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State Aid and Grants:

Services to Deaf/Blind Children,

State institutions	(286,000)
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32 Operation and Support of Educational Institutions

12-5011	Educational Institutions for the Handicapped	\$ 48,000
12-5012	Millburn Regional School for the Handicapped	88,000

Personal Services:

Salaries and wages	(\$ 92,000)
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Employee benefits	(24,000)
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Services Other Than Personal	(7,000)
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Special Purpose:

Services to Deaf/Blind Children grant—
 Indirect costs (13,000)

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 463

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, 1986 and regulating the disbursement thereof,” approved June 28, 1985 (P. L. 1985, c. 209).

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 for the purposes specified:

FEDERAL FUNDS

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

13 Special Law Enforcement Activities

18-1430 Law Enforcement Planning \$1,300,000

State Aid and Grants:

Assistance to crime victims—

Grant Awards (\$1,300,000)

80 Special Government Services

82 Protection of Citizens' Rights

19-1440 Violent Crimes Compensation \$1,250,000

Special Purpose:

Claims—Victims of violent crime

Compensation Awards (\$1,250,000)

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 464

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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 expenditure listed below are available, the following sum is appropriated for the purpose specified:

FEDERAL FUNDS

DEPARTMENT OF ENERGY

Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

10-450 Public Broadcasting Services	\$270,000
Additions, Improvements and Equipment . . . (\$270,000)	

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 465

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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 expenditure listed below are available, the following sum is appropriated for the purpose specified:

FEDERAL FUNDS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

44 Hazardous and Toxic Pollution Control

23-4910 Hazardous Waste \$750,000

Special Purpose:

Resource conservation and recovery act—

hazardous waste (\$750,000)

2. The Department of Environmental Protection shall submit a detailed budget for the expenditure of these funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer. The Director of the Division of Budget and Accounting shall inform both the Department of Labor and the Legislative Budget and Finance Officer, in writing, of his approval or modification of the detailed budget.

3. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 466

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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 that federal funds to support the expenditure listed below are available, the following sum is appropriated for the purpose specified:

FEDERAL FUNDS

DEPARTMENT OF HIGHER EDUCATION

Educational, Cultural, and Intellectual Development

36 Higher Educational Services

5540 Montclair State College

16-5540 Student Services \$47,758

Special Purpose:

College work-study program (\$47,758)

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 467

AN ACT to amend the "Boat Ownership Certificate Act," approved September 12, 1984 (P. L. 1984, c. 152).

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

1. Section 30 of P. L. 1984, c. 152 is amended to read as follows:

30. This act shall take effect June 15, 1987.

2. This act shall take effect immediately.

Approved January 15, 1986.

CHAPTER 468

AN ACT to amend the "Corporation Business Tax Act (1945)," approved April 13, 1945 (P. L. 1945, c. 162).

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

1. Section 4 of P. L. 1945, c. 162 (C. 54:10A-4) is amended to read as follows:

C. 54:10A-4 Definitions.

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

(a) "Commissioner" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, and (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion. Notwithstanding the foregoing, net worth shall not include any deduction for the amount of the excess depreciation described in paragraph (2) (F) of subsection (k) of this section. The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as ownership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall effect a like reduction of such investment from net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

In the case of banking corporations which have international banking facilities as defined in subsection (n), the foregoing aggregate of values shall also be reduced by retained earnings of the international banking facility. Retained earnings means the earnings accumulated over the life of such facility and shall not include the pro rata share of dividends paid and federal income taxes paid or payable during the tax year.

If in the opinion of the commissioner, the corporation's books do not disclose fair valuations the commissioner may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) "Indebtedness owing directly or indirectly" shall include, without limitation thereto, all indebtedness owing to any stockholder or shareholder and to members of his immediate family where a stockholder and members of his immediate family together or in the aggregate own 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes.

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report; or (3) is a banking corporation or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation required to report or to pay taxes, interest or penalties under this act.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets. For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal income tax; provided, however, that in the determination of such entire net income,

(1) Entire net income shall exclude for the periods set forth in paragraph (2) (F) (i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168 (f) (8) (D) (v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which is included in a taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of paragraph (8) of that section.

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations;

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in paragraph (5) of subsection (k) of this section;

(C) Taxes paid or accrued to the United States on or measured by profits or income, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section;

(D) (Deleted by amendment, P. L. 1985, c. 143.)

(E) 90% of interest on indebtedness owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of

the taxpayer's capital stock of all classes; except that such interest may, in any event, be deducted

(i) Up to an amount not exceeding \$1,000.00;

(ii) In full to the extent that it relates to bonds or other evidences of indebtedness issued, with stock, pursuant to a bona fide plan of reorganization, to persons, who, prior to such reorganization, were bona fide creditors of the corporation or its predecessors, but were not stockholders or shareholders thereof;

(iii) In full to the extent that it relates to debt of a financial business corporation owed to an affiliate corporation; provided that such interest rate does not exceed 2% over prime rate; the prime rate to be determined by the Commissioner of Banking;

(iv) In full to the extent that it relates to financing of motor vehicle inventory held for sale to customers; provided said indebtedness is owed to a taxpayer customarily and routinely providing this type of financing;

(v) In full to the extent it relates to debt of a banking corporation to a bank holding company, of which the banking corporation is a subsidiary, or to a debt of a banking corporation to another banking corporation with respect to federal funds transactions governed by section 23A of the Federal Reserve Act (12 U.S.C. § 371e.) when both banking corporations are subsidiaries of the same bank holding company, as defined in 12 U.S.C. § 1841.

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981.

(ii) For the periods set forth in subparagraph (F) (i) of this subsection, any amount, except with respect to qualified mass com-

muting vehicles as described in section 168 (f) (8) (D) (v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which the taxpayer claimed as a deduction in computing federal income tax pursuant to a qualified lease agreement under paragraph (8) of that section.

The director shall promulgate rules and regulations necessary to carry out the provisions of this section, which rules shall provide, among others, the manner in which the remaining life of property shall be reported.

(3) The commissioner may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(4) There shall be allowed as a deduction from entire net income of a banking corporation, to the extent not deductible in determining federal taxable income, the eligible net income of an international banking facility determined as follows:

(A) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses;

(B) Eligible gross income shall be the gross income derived by an international banking facility, which shall include, but not be limited to, gross income derived from:

(i) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled by one or more domestic corporations (other than banks), domestic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(ii) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities; or

(iii) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph;

(iv) Such other activities as an international banking facility may, from time to time, be authorized to engage in;

(C) Applicable expenses shall be any expense or other deductions attributable, directly or indirectly, to the eligible gross income described in subparagraph (B) of this paragraph.

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section. With respect to other dividends, entire net income shall not include 50% of the total included in computing such taxable income for federal income tax purposes.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the taxable year the net operating loss carryover to that year.

(B) Net operating loss carryover. A net operating loss for any taxable year ending after June 30, 1984 shall be a net operating loss carryover to each of the seven years following the year of the loss. The entire amount of the net operating loss for any taxable year (the "loss year") shall be carried to the earliest of the taxable years to which the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior taxable years to which the loss may be carried.

(C) Net operating loss. For purposes of this paragraph the term "net operating loss" means the excess of the deductions over the gross income used in computing entire net income without the net operating loss deduction provided for in subparagraph (A) of this paragraph and the exclusions in paragraphs (4) and (5) of this subsection.

(D) Change in ownership. Where there is a change in 50% or more of the ownership of a corporation because of redemption or sale of stock and the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted from income earned after such changes. In addition where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the director may disallow the carryover.

(l) "Real estate investment trust" shall mean any unincorporated trust or unincorporated association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub. L. 92-181 (12 U. S. C. § 2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign

bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit as such terms are defined in section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the board of governors of the Federal Reserve System, 12 CFR Part 204, effective December 3, 1981. In the event that the United States enacts a law, or the board of governors of the Federal Reserve System adopts a regulation which amends the present definition of international banking facility or of such facilities' time deposits or extensions of credit, the Commissioner of Banking shall forthwith adopt regulations defining such terms in the same manner as such terms are set forth in the laws of the United States or the regulations of the board of governors of the Federal Reserve System. The regulations of the Commissioner of Banking shall thereafter provide the applicable definitions.

2. This act shall take effect immediately and shall be applicable with respect to accounting or privilege periods beginning on or after January 1, 1985.

Approved January 16, 1986.

CHAPTER 469

AN ACT concerning the awarding of public contracts, amending various parts of the statutory law and providing for an immediate adjustment of threshold amounts.

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

1. N. J. S. 18A:39-3 is amended to read as follows:

Pupil transportation contracts.

18A:39-3. a. No contract for the transportation of pupils to and from school shall be made, when the amount to be paid during the school year for such transportation shall exceed \$7,500.00 or the amount determined pursuant to subsection b. of this section, and have the approval of the county superintendent of schools, unless the board of education making such contract shall have first publicly advertised for bids therefor in a newspaper published in the

district or, if no newspaper is published therein, in a newspaper circulating in the district, once, at least 10 days prior to the date fixed for receiving proposals for such transportation, and shall have awarded the contract to the lowest responsible bidder.

Nothing in this chapter shall require the advertisement and letting on proposals or bids of annual extensions, approved by the county superintendent, of any contract for transportation entered into through competitive bidding when—

(1) Such annual extensions impose no additional cost upon the board of education; or

(2) The increase in the original contractual amount as a result of such extensions does not exceed 30% thereof; except in cases where a student rider is newly assigned to a route during the school year and extra mileage is necessary. Any such arrangement shall be approved by the county superintendent of schools and shall be bid for the next school year.

(3) (Deleted by amendment, P. L. 1982, c. 74.)

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify all local school districts of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

2. Section 5 of P. L. 1972, c. 29 (C. 26:2I-5) is amended to read as follows:

C. 26:2I-5 Powers of authority.

5. Powers of authority. The authority shall have power:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business and to alter and revise such bylaws from time to time at its discretion.

b. To adopt and have an official seal and alter the same at pleasure.

c. To maintain an office at such place or places within the State as it may designate.

- d. To sue and be sued in its own name.
- e. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof as provided in this act.
- f. To acquire, lease as lessee or lessor, hold and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this act.
- g. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, any land or interest therein and other property which it may determine is reasonably necessary for any project; and to hold and use the same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the authority's purposes, for fair consideration after public notice.
- h. To receive and accept, from any federal or other public agency or governmental entity directly or through the Department of Health or any other agency of the State or any participating hospital, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants, loans and contributions may be made.
- i. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of hospital projects for participating hospitals under the provisions of this act, and from time to time to modify such plans, specifications, designs or estimates.
- j. By contract or contracts with and for participating hospitals only, to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip hospital projects. The authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of \$7,500.00 or the amount determined as provided in this subsection, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered

into is one for the furnishing or performing services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with said board. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in this subsection, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the authority of the adjustment. The adjustment shall become effective July 1 of each odd-numbered year.

k. To determine the location and character of any project to be undertaken, subject to the provisions of this act, and subject to State health and environmental laws, to construct, reconstruct, maintain, repair, lease as lessee or lessor, and regulate the same and operate the same in the event of default by a participating hospital of its obligations and agreements with the authority; to enter into contracts for any or all such purposes; and to enter into contracts for the management and operation of a project in the event of default as herein provided. The authority shall use its best efforts to conclude its position as an operator as herein provided as soon as is practicable.

l. To establish rules and regulations for the use of a project or any portion thereof and to designate a participating hospital as its agent to establish rules and regulations for the use of a project undertaken by such a participating hospital.

m. Generally to fix and revise from time to time and to charge and collect rates, rents, fees and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with holders of its bonds and with any other person, party, association, corporation or other body, public or private, in respect thereof, subject to the provisions of the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H-1 et seq.).

n. To enter into agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act.

o. To invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in such obligations as are authorized by resolution of the authority.

p. To obtain, or aid in obtaining, from any department or agency of the United States any insurance or guarantee as to, or of, or for the payment or repayment of interest or principal, or both, or any part thereof, on any loan or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this act; and notwithstanding any other provisions of this act, to enter into agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee, and accept payment in such manner and form as provided therein in the event of default by the borrower.

q. To obtain from any department or agency of the United States or a private insurance company any insurance or guarantee as to, or of, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority pursuant to the provisions of this act; and notwithstanding any other provisions of this act, to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee, except to the extent that such action would in any way impair or interfere with the authority's ability to perform and fulfill the terms of any agreement made with the holders of the bonds of the authority.

r. To receive and accept, from any department or agency of the United States or of the State or from any other entity, any grant, appropriation or other moneys to be used for or applied to any corporate purpose of the authority, including without limitation the meeting of debt service obligations of the authority in respect of its bonds.

3. R. S. 27:2-1 is amended to read as follows:

Road contracts.

27:2-1. a. When the cost of constructing, reconstructing or resurfacing any State, county or municipal road, street or highway, or portion thereof, will exceed \$7,500.00 or the amount determined

pursuant to subsection b. of this section, the specifications and their adoption and the award of the contract therefor shall be subject to the provisions of this chapter.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify every governing body in charge of approving contracts for work on public thoroughfares specified in subsection a. of this section of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

4. R. S. 27:16-16 is amended to read as follows:

Bidding required.

27:16-16. If the cost of the improvement contemplated by section 27:16-15 of this Title exceeds the amount set forth in, or the amount calculated by the Governor pursuant to, R. S. 27:2-1, bids shall be invited for the performance thereof by publication in one or more newspapers in the county, for two weeks prior to the time appointed for receiving the bids. The contract shall be awarded to the lowest responsible bidder, who shall furnish good and sufficient security for the performance thereof, to the satisfaction of the board of chosen freeholders.

5. R. S. 27:19-35 is amended to read as follows:

Bridge construction contracts.

27:19-35. a. The commission shall award no contract or agreement for the construction, reconstruction, repair, enlargement, extension, renewal, replacement or equipment of such bridges, exceeding in amount the sum of \$7,500.00 or the amount determined pursuant to subsection b. of this section, without advertisement for bids, which shall be opened publicly, and an award made to the lowest responsible bidder, with power in the commission to reject any or all bids. Contracts for the purchase of bridges may be made and executed without advertisement.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this

section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify each commission of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

6. Section 3 of P. L. 1971, c. 198 (C. 40A:11-3) is amended to read as follows:

C. 40A:11-3 Purchases, contracts or agreements not required to be advertised.

3. Purchases, contracts or agreements not required to be advertised.

a. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, together with any other sums expended or to be expended for the performance of any work or services in connection with the same immediate program, undertaking, activity or project or the furnishing of similar materials or supplies during the same fiscal year paid with or out of public funds, does not exceed in the fiscal year the total sum of \$7,500.00 or the amount determined pursuant to subsection b. of this section, may be made, negotiated or awarded by a contracting agent when so authorized by resolution of the governing body of the contracting unit without public advertising for bids. Such authorization may be granted for each purchase, contract or agreement or by a general delegation of the power to make, negotiate or award such purchases, contracts or agreements pursuant to this section.

Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 12 consecutive months, notwithstanding that such 12-month period does not coincide with the fiscal year. 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.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985,

c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify each governing body of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

7. Section 4 of P. L. 1971, c. 198 (C. 40A:11-4) is amended to read as follows:

C. 40A:11-4 Contracts and agreements required to be advertised.

4. Contracts and agreements required to be advertised. Every contract or agreement for the performance of any work or the furnishing or hiring of any materials or supplies, the cost or the contract price whereof is to be paid with or out of public funds, not included within the terms of section 3 of this act, shall be made or awarded only by the governing body of the contracting unit after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law. No work, materials or supplies shall be undertaken, acquired or furnished for a sum exceeding in the aggregate 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), except by contract or agreement.

8. Section 6 of P. L. 1971, c. 198 (C. 40A:11-6) is amended to read as follows:

C. 40A:11-6 Emergency purchases and contracts.

6. Emergency purchases and contracts. Any purchase, contract or agreement may be made, negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the cost or contract price will exceed 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), when an emergency affecting the public health, safety or welfare requires the immediate delivery of the articles or the performance of the services; provided that the awarding or making of such purchases, contracts or agreements are made in the following manner:

a. A written requisition for the performance of such work or labor, or the furnishing of materials, supplies or services is filed with the contracting agent or his deputy in charge describing the nature of the emergency, the time of its occurrence and the need for invoking this section, certified by the officer or director in charge of the department wherein the emergency occurred, or such other

officer or employee as may be authorized to act in place of said officer or director, and the contracting agent or his deputy in charge, being satisfied that the emergency exists, is hereby authorized to award a contract for said work or labor, materials, supplies or services.

b. Upon the furnishing of such work or labor, materials, supplies or services, in accordance with the terms of the contract or agreement, the contractor furnishing such work or labor, materials, supplies or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.

c. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

9. Section 7 of P. L. 1971, c. 198 (C. 40A:11-7) is amended to read as follows:

C. 40A:11-7 Contracts not to be divided.

7. Contracts not to be divided. No purchase, contract or agreement, which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the purchase, contract or agreement includes the furnishing of additional services or buying or hiring of materials or supplies or the doing of additional work, shall be subdivided, so as to bring it or any of the parts thereof under the maximum price or cost limitation of 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), thus dispensing with the requirement of public advertising and bidding therefor, and in purchasing or contracting for, or agreeing for the furnishing of, any services, the doing of any work or the supplying of any materials or the supplying or hiring of any materials or supplies, included in or incident to the performance or completion of any project, program, activity or undertaking which is single in character or inclusive of the furnishing of additional services or buying or hiring of materials or supplies or the doing of additional work, or which requires the furnishing of more than one article of equipment or buying or hiring of materials or supplies, all of the services, materials or property requisite for the completion of such project shall be included in one purchase, contract or agreement.

10. Section 16 of P. L. 1971, c. 198 (C. 40A:11-16) is amended to read as follows:

C. 40A:11-16 Separate plans for various types of work; bids; contracts.

16. Separate plans for various types of work; bids; contracts. In the preparation of plans and specifications for the erection, alteration or repair of any public building by any contracting unit, when the entire cost of the work will exceed 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), the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for

- (1) The plumbing and gas fitting and all kindred work;
- (2) Steam power plants, steam and hot water heating and ventilating apparatus and all kindred work;
- (3) Electrical work;
- (4) Structural steel and ornamental iron work; and
- (5) All other work required for the completion of the project.

The contracting unit or its contracting agent shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said branches of work, or (b) bids for all the work and materials required to complete the building to be included in a single overall contract, or (c) both. There will be set forth in the bid the name or names of, and evidence of performance security from, all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this act.

Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (c) above said contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work and materials, the contracting unit shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amounts bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the contracting unit shall award a single overall contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for

work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

11. R. S. 40:128-1 is amended to read as follows:

Street improvement contracts.

40:128-1. a. The council may, in the manner hereinafter provided, make contracts at one time or at different times for the doing of any or all of the work, or for the furnishing of any or all of the material necessary for the grading, flagging, macadamizing, paving, curbing or guttering of any street, highway or section thereof or for the construction of a sidewalk of any material thereon, which the council may have previously authorized or may thereafter authorize for all or any portion of the then current calendar year. The council shall first adopt a resolution by the unanimous vote of all the members of the council or board of commissioners that it is to the interest of the town to make a general contract or contracts for the doing of any or all of the work, or for the furnishing of any or all of the material necessary for the improvements authorized or to be authorized for all or any portion of the then current calendar year. At any time after the passage of said resolution the council may require the clerk to advertise for proposals in the official newspaper of the town and in such other newspapers as it may designate, for the doing of all or any part of the work or the furnishing of all or any part of the materials necessary for such improvements, as the council may have previously authorized or may thereafter authorize during such portion of the then current calendar year, as the council may determine. Where the sum to be expended exceeds \$7,500.00 or the amount determined pursuant to subsection b. of this section, the proposals shall be advertised and bids received, and contracts therefor awarded in all respects as provided in chapter 50 of this title (§ 40:50-1 et seq.). The contract shall be awarded to the lowest responsible bidder, on the terms of their proposals, but the council may reject all bids if they deem it for the interest of the town so to do, in which case they shall again advertise for proposals, and shall proceed in all things as if no proposals had been offered. The council shall require the person contracting with the town to give bond with ample freehold security for the due performance thereof, or may require the bond of a surety company authorized to transact business in this State.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this

section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify each council or governing body of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

12. Section 22 of P. L. 1967, c. 184 (C. 40:68-48) is amended to read as follows:

C. 40:68-48 District contracts.

22. a. The district shall award no contract or agreement for the purposes provided for in this act exceeding in amount the sum of \$7,500.00 or the amount determined pursuant to subsection b. of this section, without advertisement for bids, which shall be opened publicly and an award made to the lowest responsible bidder, with power in the district to reject any or all bids.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

13. R. S. 40:62-63 is amended to read as follows:

Water supply contracts.

40:62-63. a. Whenever any work to be performed or materials to be furnished under sections 40:62-47 to 40:62-105 of this Title, or any of them, may involve an expenditure of any sum exceeding \$7,500.00 or the amount determined pursuant to subsection b. of this section, the governing body shall advertise for bids therefor, and award and execute the contract therefor, as provided in chapter 50 of this title (§ 40:50-1 et seq.). The advertisements shall specify the dimensions and quality of the work to be done or materials to be furnished.

This subsection shall not be construed to apply to the compensation of specially retained advisers, or when the exigency of the service or an emergency threatening the continuity of the water supply shall be declared to exist by a resolution passed by an affirmative vote of four-fifths of the body having charge thereof. Such resolution shall state the nature of the exigency or emergency, and the approximate cost of the work necessary to be done to meet such exigency or emergency. In such case, it shall not be necessary to advertise for bids or to receive proposals or to award a contract therefor.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify each governing body of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

14. Section 22 of P. L. 1981, c. 293 (C. 58:1B-22) is amended to read as follows:

C. 58:1B-22 Authority contracts.

22. a. The authority is hereby authorized to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. No contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of \$7,500.00 or the amount determined pursuant to subsection b. of this section, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; but advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with

the board. This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the authority service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be expended.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

15. R. S. 58:5-20 is amended to read as follows :

Commission contracts.

58:5-20. a. Whenever any work to be performed or material to be furnished involves an expenditure exceeding \$7,500.00 or the amount determined pursuant to subsection b. of this section, the commission shall cause to be prepared, and shall approve in public meeting, such form of contract or alternative contracts for the execution of the work or the furnishing of the materials, and payment therefor, as will in its judgment secure the execution of the work and the furnishing of the materials most efficiently, economically and expeditiously.

This subsection shall not prevent the commission from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the commission's service will not admit of such advertisement. In such case the commission shall, by resolution, passed by the affirmative vote of a majority of its members, declare

the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

Thereupon the commission shall designate the time when it will meet at its usual place of meeting to receive proposals in writing for doing the work or furnishing the materials in accordance with, and upon the terms and conditions of, such form of contract or alternative contracts, and shall order its clerk to give notice, by advertisement inserted at least 10 days before the time of such meeting in at least two newspapers printed and circulating in the county or counties in which the municipalities in said water supply project are situated, of the work to be done and the materials to be furnished, particular plans and specifications of which shall, at the time of such order, be filed in the office of the commission.

All proposals shall be publicly opened by the commission, which shall award the contract to the lowest responsible and qualified bidder under the form of the contract originally adopted or the form of the alternative contract which shall then be adopted by it as most advantageous.

Each contractor shall be required to give bond satisfactory in amount and security to the commission for the faithful performance of his contract.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P. L. 1985, c. 469, in direct proportion of the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify each commission of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

16. Section 9 of P. L. 1954, c. 48 (C. 52:34-14) is amended to read as follows:

C. 52:34-14 State House Commission contracts.

9. Where the State House Commission is empowered to make, award or authorize the award of any agreement or contract, such agreement or contract may be made, awarded or authorized without publicly advertising for bids therefor when

(a) the cost or contract price involved does not exceed the amount set forth in, or the amount calculated by the Governor pursuant to, section 2 of P. L. 1954, c. 48 (C. 52:34-7); or

(b) the subject matter thereof is personal or professional services; or

(c) the purchase is to be made from, or the contract to be made with, the federal or any state government or any agency or political subdivision thereof; or

(d) the subject matter thereof is perishable food or subsistence supplies; or

(e) the commission first shall have adopted a resolution that the interest of the State will be best served by not so advertising.

17. (New section) The Governor shall adjust immediately the threshold amounts set forth in this 1985 amendatory and supplementary act in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The immediate adjustments shall become effective on the 30th day after the Administrator of the General Services Administration in the Department of the Treasury notifies the appropriate public entities.

18. This act shall take effect immediately.

Approved January 16, 1986.

CHAPTER 470

AN ACT concerning the Police and Firemen's Retirement System of New Jersey, 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) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator, or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to his transfer to a position within the department not otherwise covered by the retirement system or any officer or employee serving in the title of assistant superintendent I, assistant superintendent II, assistant superintendent III, superintendent I, superintendent II, II, superintendent III or administrator, prison complex within the Department of Corrections who, prior to appointment to any of those titles, was a member of the retirement system. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, and highway patrol officer, sergeant highway patrol bureau, lieutenant highway patrol bureau, captain highway patrol bureau, assistant chief highway patrol bureau, chief highway patrol bureau in the Division of State Police and alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, and inspector recruit alcoholic beverage control, inspector alcoholic beverage control, senior inspector alcoholic beverage control, principal inspector alcoholic beverage control, supervising inspector alcoholic beverage control in the Division of State Police and conservation officer, assistant district conservation officer, district conservation officer, chief conservation officer and chief, bureau of law enforcement in the Division of Fish, Game, and Wildlife, ranger and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden in the Forest Fire Service, Department of Environmental Protection, chief, Bureau of Forest Fire Management, State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire) in the Bureau of Forest Fire Management, Department of Environmental Protection, and marine police officer, senior marine police officer,

principal marine police officer in the Division of State Police, and marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, and State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, investigator, senior investigator, principal investigator, assistant chief investigator, chief investigator and director of custody operations I, II, III in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator, supervisor of electronics and investigations, and county investigator in the offices of the county prosecutors, county sheriff, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the offices of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, and supervising juvenile officer, chief investigator, assistant chief investigator, senior investigator and investigator in a county welfare agency in a county of the first class, if the county adopts an ordinance or resolution, as appropriate, pursuant to subsection a. of section 2 of P. L. 1985, c. 221 (C. 43:16A-62.3), and police officer capitol police, senior police officer capitol police in the Division of State Police and patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14-21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(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 either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any 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.

2. a. (New section) An eligible officer or employee who is serving in a title covered by this 1985 amendatory and supplementary act and who is a member of the Public Employees' Retirement System (P. L. 1954, c. 84; C. 43:15A-1 et seq.) shall be permitted to transfer his membership in that retirement system to the Police and Firemen's Retirement System of New Jersey by waiving all rights and benefits which would otherwise be provided by the Public Employees' Retirement System and by paying into the Police and Firemen's Retirement System annuity savings fund the amount of the difference between the contribution which was paid as a member of the Public Employees' Retirement System and the contribution that would have been required if he had been a member of the Police and Firemen's Retirement System since the date of last enrolling in the Public Employees' Retirement System. Any such officer or employee will likewise be permitted to continue his membership in the Public Employees' Retirement System by waiving all rights and benefits which would otherwise be provided by the Police and Firemen's

Retirement System. Such waivers shall be accomplished by filing forms satisfactory to the New Jersey Division of Pensions, which is responsible for the administration of the Police and Firemen's Retirement System, within 90 days following the effective date of this amendatory and supplementary act, and in the case of a waiver with respect to transferral to the Police and Firemen's Retirement System of New Jersey, a lump sum payment in the amount of the difference between the contribution which was paid as a member of the Public Employees' Retirement System and the contribution that would have been required if he had been a member of the Police and Firemen's Retirement System since the date of last enrolling in the Public Employees' Retirement System shall be made at the time of filing the waiver. In addition, the employee shall be liable for the amount of the difference between (1) the total contribution paid by the employer of the employee to the Public Employees' Retirement System of New Jersey with respect to any service credit transferred therefrom to the Police and Firemen's Retirement System under this subsection, and (2) the contribution which the employer would have been required to pay to the Police and Firemen's Retirement System with respect to that service credit if the employee had been enrolled in the Police and Firemen's Retirement System during the entire period with respect to which he accumulated that credit; this payment may be made in regular monthly installments or in a lump sum, as the employee may elect, and pursuant to rules and regulations as may be promulgated by the Division of Pensions. In the absence of a filing of a timely waiver and, if appropriate, making payment by any eligible officer or employee, his pension status shall remain unchanged and his membership shall not be transferred to the Police and Firemen's Retirement System.

b. The transfer of membership from the Public Employees' Retirement System to the Police and Firemen's Retirement System shall be done in accordance with the provisions of P. L. 1973, c. 156 (C. 43:16A-62 et seq.). Whenever in P. L. 1973, c. 156 a period of time is set which is to be calculated from the effective date of that act, such time shall be calculated from the effective date of this amendatory and supplementary act for the purposes hereof.

3. This act shall take effect immediately.

Approved January 16, 1986.

CHAPTER 471

AN ACT to amend the "General Public Assistance Law," approved May 13, 1947 (P. L. 1947, c. 156).

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

1. Section 8 of P. L. 1947, c. 156 (C. 44:8-114) is amended to read as follows:

C. 44:8-114 Public work by welfare recipients.

8. Every municipality shall provide public assistance to the persons eligible therefor, residing therein or otherwise when so provided by law, which shall be 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.

As hereinafter provided, employable persons receiving public assistance shall be required, except when good cause exists, to perform such public work as shall be assigned to them by the Division of Employment Services in the Department of Labor or, in the manner described herein, by the director of welfare of the municipality providing public assistance.

The division shall provide for the establishment of public work programs for the assignment of employable persons in receipt of public assistance. Public work may include the performance of work for the municipality providing public assistance, or the performance of work in the operation of or in an activity of a nonprofit agency or institution pursuant to a contract with the municipality. Public work projects to which employable persons are assigned by the division may include work for other levels of government besides the municipality, and shall be approved by the Commissioner of the Department of Labor. If a recipient is injured while performing work assigned by the division or a municipal welfare director pursuant to this act, liability for such injury shall be assumed by the State, pursuant to the Workers' Compensation Act, R. S. 34:15-1 et seq. No State agency, municipality or any governmental or nonprofit agency or institution which has contracted with the division or a municipality pursuant to this act, or its employees, shall be liable in a civil suit for damages for any injury

sustained by a recipient while performing work required by this act.

The director of welfare in the municipality shall notify the division of persons in receipt of public assistance who, in his judgment, and in accordance with the regulations established by the Commissioner of Human Services, are able to perform work. From the time that he has so notified the division until such time as the division shall assign such persons to a public work project, the director of welfare shall assign such employable persons to perform public work if such work is available, and shall notify the division. The division may approve any such employment assigned by the director of welfare without further need for assignment or reassignment or may make another assignment. In assigning public work, the director of welfare or the division, as the case may be, shall be satisfied that such employable persons will not be used to replace any regular employees of any department or unit of such municipality.

In assigning persons to public work in a nonprofit agency or institution, the division or the director of welfare, as the case may be, shall also be satisfied that such assignment will not result in the displacement of regular employees of the agency or institution.

The Commissioner of Labor shall establish regulations concerning the appropriateness of work-site assignments.

Persons performing such work assigned by the division or the director of welfare shall work only the number of hours equal to the amount of their grant divided by an hourly wage rate commensurate with beginning regular employees similarly employed. Performance of such work shall result in payment to the person of his public assistance grant.

Any person who without good cause fails or refuses to report for or to perform work to which he has been assigned by the director of welfare or the division shall thereupon become ineligible for public assistance for a period of 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 reports for and performs work to which he has been assigned or shows his willingness to do so.

Good cause for failure or refusal to report for or to perform work shall include, but shall not be limited to: working conditions which are a substantial risk to health and safety; physical inability

to engage in a particular type of work; or lack of a reasonable means of transportation.

Willingness to report for or to perform work shall be demonstrated by maintaining a current registration with the division; by reporting to a division office upon request and providing all required information; by reporting for employment interviews as scheduled by the division; by accepting employment or better employment when offered, whether or not the offer is made through or referred by the division; by accepting training for employment as offered when the person is unemployed; and by continuing in employment training, unless the person has good cause to fail or refuse to report for or to perform the work to which the person has been assigned.

2. This act shall take effect immediately.

Approved January 16, 1986.

CHAPTER 472

AN ACT concerning flood control, providing for the cleaning, clearing and desnagging of the Passaic, Pequannock, Pompton, Ramapo, Rockaway, Wanaque and Whippany rivers and their tributaries, and making an appropriation.

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

1. a. The Department of Environmental Protection, not later than 60 days after the effective date of this act, shall prepare a list, on a priority basis, of those portions of the following rivers and their tributaries which are in need of cleaning, clearing and desnagging for flood control purposes:

The Passaic river from Beatties dam upstream to its confluence with the Pompton river, for 3.3 miles.

The Pequannock river from its mouth to the New York Susquehanna and Western railroad bridge, for 3.2 miles.

The Pompton river from its mouth upstream to the Pequannock Feeder dam, for 6.6 miles. Approximately 2.7 miles along Beaver dam brook is also to be included.

The Ramapo river from the Pompton Feeder dam upstream for two miles to Pompton Lake dam, and also from the Oakland municipal border at the upper limit of Pompton Lake upstream for 3.9 miles to Mahwah.

The Rockaway river from Vail road upstream for two miles to Knoll road, and from the Morris canal viaduct upstream for 2.5 miles to Savage road.

The Wanaque river from its mouth to Wanaque avenue, for 2.8 miles through the old Lake Inez.

The Whippany river in the vicinity of Route 10 and Whippany road.

b. The priority list prepared pursuant to subsection a. of this section shall be based upon specific criteria to be determined by the Department of Environmental Protection.

c. Not later than 150 days after the effective date of this act, the department shall adopt, and begin, in cooperation with the local governmental units in the region, the implementation of a plan to clean, clear and desnag the portions of the rivers and their tributaries which are identified in subsection a. of this section.

d. This plan also shall provide for the maintenance desnagging of these rivers and their tributaries every two years, or as needed, over a 10-year period after the initial cleanup has been completed.

2. There is appropriated to the Department of Environmental Protection from the General Fund the sum of \$2,000,000.00 to provide State grants to local units to carry out the purposes of subsection b. of section 1 of this act; except that no grant shall exceed 75% of the cost of any single project. The local share of the cost of any single project shall not be less than 25%.

3. This act shall take effect immediately.

Approved January 16, 1986.

CHAPTER 473

AN ACT authorizing a study to determine the effectiveness of using a computer system to process firearms applications and permits which are submitted and issued under N. J. S. 2C:58-1 et seq. and making an appropriation.

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

1. The Superintendent of the Division of State Police in the Department of Law and Public Safety shall develop and implement a program to study the feasibility and cost effectiveness of installing a computer system within the division for the processing of firearms applications and the tracking of firearms permits which are submitted and issued under N. J. S. 2C:58-1 et seq. The study may be conducted by an independent consultant retained by the superintendent for this purpose. The superintendent shall report the findings of the study to the Governor and the Legislature with appropriate recommendations for legislative action within 120 days of the effective date of this act.

2. There is appropriated from the General Fund to the Division of State Police in the Department of Law and Public Safety \$10,000.00 for the purpose of developing and implementing the study in section 1 of this act.

3. This act shall take effect immediately.

Approved January 16, 1986.

CHAPTER 474

AN ACT concerning government-operated nursing homes 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 the Department 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.

A person shall not be considered a qualified applicant if, within 24 months of becoming or making application to become a qualified applicant, he has made a voluntary assignment or transfer of real or personal property, or any interest or estate in property, for less than adequate consideration. Such voluntary assignment or transfer of property shall be deemed to have been made for the purpose of becoming a qualified applicant in the absence of evidence to the contrary supplied by the applicant. This requirement shall not be applicable to Supplemental Security Income applicants or aged, blind or disabled applicants for Medicaid only unless authorized by federal law. Implementation of this requirement shall conform with the provisions of section 132 of Pub. L. 97-248 (42 U. S. C. § 1396 p. (c));

(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); and

(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.

(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.

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.

2. Section 7 of P. L. 1968, c. 413 (C. 30:4D-7) is amended to read as follows:

C. 30:4D-7 Duties of commissioner.

7. Duties of commissioner. The commissioner is authorized and empowered to issue, or to cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules and regulations and administrative orders, and to do or cause to be done all other acts and things necessary to secure for the State of New Jersey the maximum federal participation that is available with respect to a program of medical assistance, consistent with fiscal responsibility and within the limits of funds available for any fiscal year, and to the extent authorized by the medical assistance program plan; to adopt fee schedules with regard to medical assistance benefits and otherwise to accomplish the purposes of this act, including specifically the following:

a. Subject to the limits imposed by this act, to submit a plan for medical assistance, as required by Title XIX of the federal Social Security Act, to the federal Department of Health and Human Services for approval pursuant to the provisions of such law; to act for the State in making negotiations relative to the submission and approval of such plan, to make such arrangements, not inconsistent with the law, as may be required by or pursuant to federal law to obtain and retain such approval and to secure for the State the benefits of the provisions of such law;

b. Subject to the limits imposed by this act, to determine the amount and scope of services to be covered, that the amounts to be paid are reasonable, and the duration of medical assistance to be furnished; provided, however, that the department shall provide medical assistance on behalf of all recipients of categorical assistance and such other related groups as are mandatory under federal

laws and rules and regulations, as they now are or as they may be hereafter amended, in order to obtain federal matching funds for such purposes and, in addition, provide medical assistance for the foster children specified in section 3i. (7) of this act. The medical assistance provided for these groups shall not be less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under federal laws and rules and regulations to obtain federal matching funds for such purposes.

The commissioner is authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to extend the scope, duration, and amount of medical assistance on behalf of these groups of categorical assistance recipients, related groups as are mandatory, and foster children authorized pursuant to section 3i. (7) of this act, so as to include, in whole or in part, the optional medical services authorized under federal laws and rules and regulations, and the commissioner shall have the authority to establish and maintain the priorities given such optional medical services; provided, however, that medical assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain federal matching funds.

The commissioner is further authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to issue, or cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules, regulations and administrative orders, and to do or cause to be done all other acts and things necessary to implement and administer demonstration projects pursuant to Title XI, section 1115 of the federal Social Security Act, including, but not limited to waiving compliance with specific provisions of this act, to the extent and for the period of time the commissioner deems necessary, as well as contracting with any legal entity, including but not limited to corporations organized pursuant to Title 14A, New Jersey Statutes (N. J. S. 14A:1-1 et seq.), Title 15, Revised Statutes (R. S. 15:1-1 et seq.) and Title 15A, New Jersey Statutes (N. J. S. 15A:1-1 et seq.) as well as boards, groups, agencies, persons and other public or private entities;

c. To administer the provisions of this act;

d. To make reports to the federal Department of Health and Human Services as from time to time may be required by such

federal department and to the New Jersey Legislature as hereinafter provided;

e. To assure that any applicant, qualified applicant or recipient shall be afforded the opportunity for a hearing should his claim for medical assistance be denied, reduced, terminated or not acted upon within a reasonable time;

f. To assure that providers shall be afforded the opportunity for an administrative hearing within a reasonable time on any valid complaint arising out of the claim payment process;

g. To provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of this act;

h. To take all necessary action to recover any and all payments incorrectly made to or illegally received by a provider from such provider or his estate or from any other person, firm, corporation, partnership or entity responsible for or receiving the benefit or possession of the incorrect or illegal payments or their estates, successors or assigns, and to assess and collect such penalties as are provided for herein;

i. To take all necessary action to recover the cost of benefits incorrectly provided to or illegally obtained by a recipient, including those made after a voluntary divestiture of real or personal property or any interest or estate in property for less than adequate consideration made for the purpose of qualifying for assistance. The division shall take action to recover the cost of benefits from a recipient, legally responsible relative, representative payee, or any other party or parties whose action or inaction resulted in the incorrect or illegal payments or who received the benefit of the divestiture, or from their respective estates, as the case may be and to assess and collect the penalties as are provided for herein, except that no lien shall be imposed against property of the recipient prior to his death except in accordance with section 17 of P. L. 1968, c. 413 (C. 30:4D-17). No recovery action shall be initiated more than five years after an incorrect payment has been made to a recipient when the incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof;

j. To take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient in accordance with sections 6 through 12 of this amendatory and supplementary act;

k. To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability; where it is known that a third party has a liability, to treat such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability;

l. To compromise, waive or settle and execute a release of any claim arising under this act including interest or other penalties, or designate another to compromise, waive or settle and execute a release of any claim arising under this act. The commissioner or his designee whose title shall be specified by regulation may compromise, settle or waive any such claim in whole or in part, either in the interest of the Medicaid program or for any other reason which the commissioner by regulation shall establish;

m. To pay or credit to a provider any net amount found by final audit as defined by regulation to be owing to the provider. Such payment, if it is not made within 45 days of the final audit, shall include interest on the amount due at the maximum legal rate in effect on the date the payment became due, except that such interest shall not be paid on any obligation for the period preceding September 15, 1976. This subsection shall not apply until federal financial participation is available for such interest payments;

n. To issue, or designate another to issue, subpoenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents of any party, whether or not that party is a provider, which directly or indirectly relate to goods or services provided under this act, for the purpose of assisting in any investigation, examination, or inspection, or in any suspension, debarment, disqualification, recovery, or other proceeding arising under this act;

o. To solicit, receive and review bids pursuant to the provisions of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and supplements thereto, by authorized insurance companies and non-profit hospital service corporations or medical service corporations, incorporated in New Jersey, and authorized to do business pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940,

c. 74 (C. 17:48A-1 et seq.), and to make recommendations in connection therewith to the State Medicaid Commission;

p. To contract, or otherwise provide as in this act provided, for the payment of claims in the manner approved by the State Medicaid Commission;

q. Where necessary, to advance funds to the underwriter or fiscal agent to enable such underwriter or fiscal agent, in accordance with terms of its contract, to make payments to providers;

r. To enter into contracts with federal, State, or local governmental agencies, or other appropriate parties, when necessary to carry out the provisions of this act;

s. To assure that the nature and quality of the medical assistance provided for under this act shall be uniform and equitable to all recipients;

t. To provide for the reimbursement of State and county-administered skilled nursing and intermediate care facilities through the use of a governmental peer grouping system, subject to federal approval and the availability of federal reimbursement.

(1) In establishing a governmental peer grouping system, the State's financial participation is limited to an amount equal to the nonfederal share of the reimbursement which would be due each facility if the governmental peer grouping system was not established, and each county's financial participation in this reimbursement system is equal to the nonfederal share of the increase in reimbursement for its facility or facilities which results from the establishment of the governmental peer grouping system.

(2) On or before December 1 of each year, the commissioner shall estimate and certify to the Director of the Division of Local Government Services in the Department of Community Affairs the amount of increased federal reimbursement a county may receive under the governmental peer grouping system. On or before December 15 of each year, the Director of the Division of Local Government Services shall certify the increased federal reimbursement to the chief financial officer of each county. If the amount of increased federal reimbursement to a county exceeds or is less than the amount certified, the certification for the next year shall account for the actual amount of federal reimbursement that the county received during the prior calendar year.

(3) The governing body of each county entitled to receive increased federal reimbursement under the provisions of this amendatory act shall, by March 31 of each year, submit a report to the commissioner on the intended use of the savings in county expenditures which result from the increased federal reimbursement. The governing body of each county, with the advice of agencies providing social and health related services, shall use not less than 10% and no more than 50% of the savings in county expenditures which result from the increased federal reimbursement for community-based social and health related programs for elderly and disabled persons who may otherwise require nursing home care. This percentage shall be negotiated annually between the governing body and the commissioner and shall take into account a county's social, demographic and fiscal conditions, a county's social and health related expenditures and needs, and estimates of federal revenues to support county operations in the upcoming year, particularly in the areas of social and health related services.

(4) The commissioner, subject to approval by law, may terminate the governmental peer grouping system if federal reimbursement is significantly reduced or if the Medicaid program is significantly altered or changed by the federal government subsequent to the enactment of this amendatory act. The commissioner, prior to terminating the governmental peer grouping system, shall submit to the Legislature and to the governing body of each county a report as to the reasons for terminating the governmental peer grouping system.

3. This act shall take effect on January 1, 1986, however, the commissioner shall undertake all actions which are necessary and proper to implement the program prior to the effective date.

Approved January 16, 1986.

CHAPTER 475

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, 1986 and regulating the disbursement thereof," approved June 28, 1985, P. L. 1985, c. 209.

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

1. In addition to the amounts appropriated by P. L. 1985, c. 209, there is appropriated from the General Fund the following sum for the purpose specified:

CAPITAL CONSTRUCTION

78 DEPARTMENT OF TRANSPORTATION

60 Transportation Programs

61 State Highway Facilities

Capital Project:

Purchase laboratory facility (\$3,000,000)

The Commissioner of Transportation is further authorized by this act to acquire by purchase, on such terms and conditions and in such manner as he may deem proper, or by the exercise of the power of eminent domain, any lands and other property which the commissioner may determine are reasonably necessary for the stated laboratory, employee parking, or other purposes.

2. This act shall take effect immediately.

Approved January 16, 1986.

CHAPTER 476

AN ACT concerning unemployment compensation 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.

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 section 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 paragraph 43:21-6(b) of this Title) 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 section 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.).

Any employing unit or any officer or agent of an employing unit or any other person who fails to submit any report required under paragraph 43:21-6 (b) of this Title 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 section 43:21-14 of this Title, 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 section 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) 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.

(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 17, 1986.

CHAPTER 477

AN ACT concerning insurance and the standard valuation law and amending N. J. S. 17B:19-8.

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

1. N. J. S. 17B:19-8 is amended to read as follows:

Standard valuation law.

17B:19-8. This section shall be known as the standard valuation law and shall apply to all the life insurance policies, pure endowment contracts and annuity contracts issued by every life insurer on or after January 1, 1948 or such earlier date as shall have been elected by the insurer as the operative date for such insurer of the standard nonforfeiture law.

a. The minimum standard for the valuation of the reserve liabilities for all such policies and contracts shall be the commissioner's reserve valuation methods defined in subsections b., e. and f. of this section, 3½% interest, except as otherwise provided in paragraphs (iii), (iv), (ix) and (x) of this subsection for annuity and pure endowment contracts and paragraph (x) of this subsection for life insurance policies and disability and accidental death benefits, and except 4% interest for such policies and benefits issued

on and after January 1, 1973 and prior to January 1, 1977 and 4½% interest for such policies and benefits issued on or after January 1, 1977, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table; provided, however, that the Commissioners 1958 Standard Ordinary Mortality Table shall be the table for the minimum standard for such policies issued on or after January 1, 1966 or, for policies in any category of ordinary insurance, such earlier date as shall have been elected by the insurer for the purpose and prior to the operative date, for such category, provided for in paragraph (xi) of subsection h. of the standard nonforfeiture law for life insurance (N. J. S. 17B:25-19); and provided that the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies shall be the table for the minimum standard for policies in any category of ordinary insurance issued on or after the operative date, for such category provided for in paragraph (xi) of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance. Notwithstanding the above provisions of this paragraph, for any category of ordinary insurance, reserves for such policies issued on or after July 1, 1957 and prior to the operative date provided for in paragraph (xi) of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance, may be calculated, at the option of the insurer, according to the Approved Standard Ordinary Mortality Table contained in section 17B:19-9; provided further that for any category of such policies issued on female risks on or after July 1, 1957 and prior to the operative date provided for in paragraph (xi) of subsection h. of the standard nonforfeiture law for life insurance, modified net premiums and present values, referred to in subsection b. of this section, may be calculated, at the option of the insurer with approval of the commissioner, according to an age not more than six years younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table; provided, however, that the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies shall be the table for the minimum standard for such policies issued on or after January 1, 1968 or such earlier date as shall have been elected by the insurer as the date on which the calculation of the adjusted premiums referred to in the standard nonforfeiture law for life insurance (N. J. S. 17B:25-19) for such insurer's industrial life insurance policies became based upon said table.

(iii) For individual annuity and pure endowment contracts issued prior to the operative date of paragraph (ix) of this subsection, excluding any disability and accidental death benefits in such contracts, the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner; provided, however, that for single stipulated payment individual annuity and single premium pure endowment contracts issued on or after January 1, 1970, excluding any disability and accidental death benefits in such contracts, the minimum standard shall be the lesser of (a) the standard just described and (b) the standard based on 4% interest and the Annuity Mortality Table for 1949, Ultimate, or any modification of such table approved by the commissioner.

(iv) For group annuity and pure endowment contracts, except annuities and pure endowments purchased thereunder on or after the operative date of paragraph (ix) of this subsection, excluding any disability and accidental death benefits in such contracts, the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts; provided, however, that the commissioner may establish regulations governing the use of 5% interest and either the 1971 Group Annuity Mortality Table or any modification of such table approved by the commissioner for either contracts whose reserves are considered as pension plan reserves

of the type set forth in section 805(d) of the U. S. Internal Revenue Code, as amended, or contracts of a similar type; and provided further that for group annuity benefits arising from considerations received on or after January 1, 1970, excluding any disability and accidental death benefits, the minimum standard shall be the lesser of (a) the standard just described and (b) the standard based on 4% interest and the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of such table specified for individual annuity and pure endowment contracts.

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefits or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Any such table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

(viii) For ordinary and industrial paid-up nonforfeiture term insurance, and accompanying pure endowment, the table of mortality based on the rates of mortality assumed in calculating the paid-up nonforfeiture benefits.

(ix) Except as provided in paragraph (x) of this subsection, for individual annuity and pure endowment contracts issued on or after the operative date of this paragraph (ix), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, the commissioner's reserve valuation methods defined in subsections b., e. and f. and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of any such table approved by the commissioner, and, for such contracts issued prior to January 1, 1977, 6% interest for single stipulated payment immediate annuity and single premium pure endowment contracts, and 4% interest for all other individual annuity and pure endowment contracts, and such contracts issued on or after January 1, 1977, 7½% interest for single stipulated payment immediate annuity contracts either of the type whose reserves are considered as pension plan reserves as set forth in section 805(d) of the U. S. Internal Revenue Code, as amended, or of similar type, and 6% interest for other single stipulated payment immediate annuity contracts, and 4½% interest for other individual annuity and pure endowment contracts, provided, however, that the commissioner may establish regulations governing the use, in subsequent valuations of single stipulated payments not previously valued, of an interest rate not more than 7½% or less than 6%.

(2) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table or any group

annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of any such table approved by the commissioner, and 6% interest; except 7½% interest for purchases on or after January 1, 1977 under either contracts whose reserves are considered as pension plan reserves of the type set forth in section 805(d) of the U. S. Internal Revenue Code, as amended, or contracts of similar type, provided, however, that the commissioner may establish regulations governing the use, in subsequent valuations of purchases not previously valued, of an interest rate not more than 7½% or less than 6%.

For individual single stipulated payment immediate annuity and single premium pure endowment contracts and for annuities and pure endowments purchased under group annuity and pure endowment contracts, the operative date of this paragraph (ix) shall be January 1, 1973.

For other individual annuity and pure endowment contracts, an insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph (ix) beginning on a specific date that is on or after January 1, 1973 but prior to January 1, 1979. Such specific date shall be the operative date of this paragraph for such contracts of the insurer, provided that if an insurer makes no such election, the operative date of this paragraph for such contracts of the insurer shall be January 1, 1979.

(x) The interest rates used in determining the minimum standard for the valuation of:

benefits which are subject to the provisions of N. J. S. 17B:25-19 under life insurance policies issued in a particular calendar year on or after the operative date provided for in subsection h. (xi) of N. J. S. 17B:25-19; and all other benefits in life insurance policies and all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1981; and

all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1981 under group annuity and pure endowment contracts; and

the net increase, if any, in a particular calendar year after January 1, 1981, in amounts held under guaranteed interest contracts

shall be the calendar year statutory valuation interest rates established below.

The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer $\frac{1}{4}$ of 1%:

(1) For life insurance,

$$I = .03 + W (R_1 - .03) + \frac{W}{2} (R_2 - .09);$$

(2) For single stipulated payment immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03)$$

where R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in subparagraph (7) of this paragraph, and W is the weighting factor defined in subparagraph (6) of this paragraph;

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (2) above, the formula for life insurance stated in (1) above shall apply to annuities and guaranteed interest contracts with guaranteed durations in excess of 10 years and the formula for single stipulated payment immediate annuities stated in (2) above shall apply to annuities and guaranteed interest contracts with guaranteed durations of 10 years or less;

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single stipulated payment immediate annuities stated in (2) above shall apply; and

(5) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single stipulated payment immediate annuities stated in (2) above shall apply.

However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corres-

ponding actual rate for similar policies issued in the immediately preceding calendar year by less than $\frac{1}{2}$ of 1%, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year, notwithstanding the provisions of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance;

(6) The weighting factors, W, referred to in the formulas stated above are given in the following schedules:

SCHEDULE A

Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

SCHEDULE B

Weighting factor for single stipulated payment immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

SCHEDULE C

Weighting factors for other annuities and for guaranteed interest contracts, except as stated in Schedule B above, shall be as specified in Tables A, B and C below, according to the rules and definitions in D, E and F below:

TABLE A

For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

TABLE B

For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in Table A above increased by:

Plan Type		
A	B	C
.15	.25	.05

TABLE C

For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in Table A or derived in Table B increased by:

Plan Type		
A	B	C
.05	.05	.05

Rule D. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of

years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

Rule E. Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or without such adjustment but in installments over five years or more, or as an immediate life annuity, or no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or without such adjustment but in installments over five years or more, or no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

Rule F. An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this paragraph (x) of subsection a., an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund;

(7) The reference interest rate, R , referred to in this paragraph (x) is defined as follows:

For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

For single stipulated payment immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated above, with guaranteed duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated above, with guaranteed duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in funds basis, except as stated above, the average over a period of 12 months, ending on June 30 of the calendar year of a change in the fund, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, **Inc.**

In the event that Moody's Corporate Bond Yield Average—Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner, may be substituted.

b. Except as otherwise provided in subsections e. and f., reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one-year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policies issued on or after January 1, 1985 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess

premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection e., be the greater of the reserve as of such policy anniversary calculated as described in the first paragraph of this subsection and the reserve as of such policy anniversary calculated as described in that paragraph, but with (i) the value defined in subparagraph (A) of that paragraph being reduced by 15% of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subsection a. of this section shall be used.

Reserves according to the commissioner's reserve valuation method for (i) life insurance policies providing for varying amounts of insurance or requiring the payment of varying premiums, (ii) group annuity and pure endowment contracts purchased in connection with retirement plans or plans of deferred compensation, established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection b., except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

c. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections b., e. and g. and the

mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. Reserves for any category of policies, contracts or benefits as established by the commissioner shall not be calculated according to any standards which produce smaller aggregate reserves for such category than the corresponding aggregate values of nonforfeiture benefits available as of the valuation date.

d. Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, except that for the purpose of valuing an insurer's reserve liabilities as of any date on or after January 1, 1987, the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Notwithstanding the foregoing exception, any reserves for policies and contracts, other than annuity and pure endowment contracts, issued prior to January 1, 1987 which, for the purpose of valuing an insurer's liabilities as of December 31, 1986, are based on a standard using a rate or rates of interest higher than the corresponding rate or rates of interest used in calculating nonforfeiture benefits, may continue to be based on that standard in valuing the insurer's liabilities thereafter.

e. If in any contract year the gross premium charged by any life insurer on any policy or contract to which this section applies is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. At the option of the insurer and with the consent of the commissioner, the minimum reserve defined in this subsection e. may be determined for each policy or contract except one issued

on the substandard basis by substituting, for the actual gross premium on the policy or contract, the average gross premium charged by the insurer for all policies or contracts classified other than substandard which have the same valuation characteristics apart from variation in premium on account of differences in mortality experience.

The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsection a. of this section.

Provided that for any life insurance policy issued on or after January 1, 1985 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection e. shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection b., notwithstanding the provisions of the second paragraph of such subsection b. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection b. including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection e.

f. This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased in connection with retirement plans or plans of deferred compensation, established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, except such plans providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations

derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

g. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections b., e., and f., the reserves which are held under any such plan must:

(i) be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(ii) be computed by a method which is consistent with the principles of this standard valuation law, as determined by regulations promulgated by the commissioner.

2. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 478

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

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

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

Murder.

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

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

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

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

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

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

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

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

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

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

(1) The court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or pursuant to the provisions of subsection b. of this section.

Where the defendant has been tried by a jury, the proceeding shall be conducted by the judge who presided at the trial and before

the jury which determined the defendant's guilt, except that, for good cause, the court may discharge that jury and conduct the proceeding before a jury empaneled for the purpose of the proceeding. Where the defendant has entered a plea of guilty or has been tried without a jury, the proceeding shall be conducted by the judge who accepted the defendant's plea or who determined the defendant's guilt and before a jury empaneled for the purpose of the proceeding. On motion of the defendant and with consent of the prosecuting attorney the court may conduct a proceeding without a jury. Nothing in this subsection shall be construed to prevent the participation of an alternate juror in the sentencing proceeding if one of the jurors who rendered the guilty verdict becomes ill or is otherwise unable to proceed before or during the sentencing proceeding.

(2) (a) At the proceeding, the State shall have the burden of establishing beyond a reasonable doubt the existence of any aggravating factors set forth in paragraph (4) of this subsection. The defendant shall have the burden of producing evidence of the existence of any mitigating factors set forth in paragraph (5) of this subsection but shall not have a burden with regard to the establishment of a mitigating factor.

(b) The admissibility of evidence offered by the State to establish any of the aggravating factors shall be governed by the rules governing the admission of evidence at criminal trials. The defendant may offer, without regard to the rules governing the admission of evidence at criminal trials, reliable evidence relevant to any of the mitigating factors. If the defendant produces evidence in mitigation which would not be admissible under the rules governing the admission of evidence at criminal trials, the State may rebut that evidence without regard to the rules governing the admission of evidence at criminal trials.

(c) Evidence admitted at the trial, which is relevant to the aggravating and mitigating factors set forth in paragraphs (4) and (5) of this subsection, shall be considered without the necessity of reintroducing that evidence at the sentencing proceeding; provided that the fact finder at the sentencing proceeding was present as either the fact finder or the judge at the trial.

(d) The State and the defendant shall be permitted to rebut any evidence presented by the other party at the sentencing proceeding and to present argument as to the adequacy of the evidence to establish the existence of any aggravating or mitigating factor.

(e) Prior to the commencement of the sentencing proceeding, or at such time as he has knowledge of the existence of an aggravating factor, the prosecuting attorney shall give notice to the defendant of the aggravating factors which he intends to prove in the proceeding.

(f) Evidence offered by the State with regard to the establishment of a prior homicide conviction pursuant to paragraph (4) (a) of this subsection may include the identity and age of the victim, the manner of death and the relationship, if any, of the victim to the defendant.

(3) The jury or, if there is no jury, the court shall return a special verdict setting forth in writing the existence or nonexistence of each of the aggravating and mitigating factors set forth in paragraphs (4) and (5) of this subsection. If any aggravating factor is found to exist, the verdict shall also state whether it outweighs beyond a reasonable doubt any one or more mitigating factors.

(a) If the jury or the court finds that any aggravating factors exist and that all of the aggravating factors outweigh beyond a reasonable doubt all of the mitigating factors, the court shall sentence the defendant to death.

(b) If the jury or the court finds that no aggravating factors exist, or that all of the aggravating factors which exist do not outweigh all of the mitigating factors, the court shall sentence the defendant pursuant to subsection b.

(c) If the jury is unable to reach a unanimous verdict, the court shall sentence the defendant pursuant to subsection b.

(4) The aggravating factors which may be found by the jury or the court are:

(a) The defendant has been convicted, at any time, of another murder. For purposes of this section, a conviction shall be deemed final when sentence is imposed and may be used as an aggravating factor regardless of whether it is on appeal;

(b) In the commission of the murder, the defendant purposely or knowingly created a grave risk of death to another person in addition to the victim;

(c) The murder was outrageously or wantonly vile, horrible or inhuman in that it involved torture, depravity of mind, or an aggravated assault to the victim;

(d) The defendant committed the murder as consideration for the receipt, or in expectation of the receipt of anything of pecuniary value;

(e) The defendant procured the commission of the offense by payment or promise of payment of anything of pecuniary value;

(f) The murder was committed for the purpose of escaping detection, apprehension, trial, punishment or confinement for another offense committed by the defendant or another;

(g) The offense was committed while the defendant was engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, robbery, sexual assault, arson, burglary or kidnapping; or

(h) The defendant murdered a public servant, as defined in N. J. S. 2C:27-1, while the victim was engaged in the performance of his official duties, or because of the victim's status as a public servant.

(5) The mitigating factors which may be found by the jury or the court are:

(a) The defendant was under the influence of extreme mental or emotional disturbance insufficient to constitute a defense to prosecution;

(b) The victim solicited, participated in or consented to the conduct which resulted in his death;

(c) The age of the defendant at the time of the murder;

(d) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired as the result of mental disease or defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution;

(e) The defendant was under unusual and substantial duress insufficient to constitute a defense to prosecution;

(f) The defendant has no significant history of prior criminal activity;

(g) The defendant rendered substantial assistance to the State in the prosecution of another person for the crime of murder; or

(h) Any other factor which is relevant to the defendant's character or record or to the circumstances of the offense.

d. The sentencing proceeding set forth in subsection c. of this section shall not be waived by the prosecuting attorney.

e. Every judgment of conviction which results in a sentence of death under this section shall be appealed, pursuant to the Rules of Court, to the Supreme Court. Upon the request of the defendant, the Supreme Court shall also determine whether the sentence is disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. In any instance in which the defendant fails, or refuses to appeal, the appeal shall be taken by the Office of the Public Defender or other counsel appointed by the Supreme Court for that purpose.

f. Prior to the jury's sentencing deliberations, the trial court shall inform the jury of the sentences which may be imposed pursuant to subsection b. of this section on the defendant if the defendant is not sentenced to death. The jury shall also be informed that a failure to reach a unanimous verdict shall result in sentencing by the court pursuant to subsection b.

g. A juvenile who has been tried as an adult and convicted of murder shall not be sentenced pursuant to the provisions of subsection c. but shall be sentenced pursuant to the provisions of subsection b. of this section.

2. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 479

AN ACT appropriating \$17,889,500.00 from the "1983 New Jersey Green Acres Fund" and \$20,500,000.00 from the "Green Trust Fund" to enable the State and local units of government to acquire and develop land for recreation and conservation purposes.

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 "1983 New Jersey Green Acres Fund," established pursuant to section 15 of the "New Jersey Green Acres Bond Act of 1983" (P. L. 1983, c. 354), the sums of \$17,889,500.00 for the purposes of public acquisition and development of lands by

the State for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated as follows:

a. For the State development of the following projects, \$8,139,500.00:

State Facility	County	Project
Barnegat Lighthouse State Park	Ocean	Bulkhead replacement; construction
Cape May Point State Park	Cape May	Parking lot expansion; design and construction
Cheesequake State Park	Middlesex	Parking lot development; design and construction
Cheesequake State Park	Middlesex	Salt marsh trail development; design and construction
Delaware and Raritan Canal State Park	Hunterdon Mercer Middlesex Somerset	Maintenance facility improvements; construction
Delaware and Raritan Canal State Park	Hunterdon Mercer Middlesex Somerset	Park facilities upkeep; design and construction
Delaware and Raritan Canal State Park	Hunterdon Mercer Middlesex Somerset	Recreational and historic development; construction
Fort Mott State Park	Salem	Fortification restoration; design
Hackensack Meadowlands Development Commission	Bergen	Recreational development; and construction
Hacklebarney State Park	Morris	Water distribution system renovation; construction
High Point State Park	Sussex	Office renovation; construction
Historic villages program	Statewide	Restoration and reconstruction; design and construction

State Facility	County	Project
Island Beach State Park	Ocean	Ocean bathhouse design
Kingwood fisherman access	Hunterdon	Parking lot expansion; construction
Lebanon State Forest	Burlington Ocean	Pakim Pond dam; construction
Leonardo State Marina	Monmouth	Concession and sanitary facility renovations; construction
Liberty State Park	Hudson	North embankment closure levee; construc- tion
Liberty State Park	Hudson	North embankment marina; design
Liberty State Park	Hudson	Train shed restoration; construction
Morven historic site	Mercer	Olde Quarters rehabilita- tion; design
Old Barracks historic site	Mercer	Barracks roof restora- tion and phase I interior restoration; design and construction
Olden House historic site	Mercer	Stabilization and im- provements; construc- tion
Palisades Interstate Park	Bergen	Safety fencing the Palisades Cliffs; con- struction
Parvin State Park	Salem Cumberland	Bathhouse renovation; construction
Ramapo Mountain	Bergen	Road improvements; construction
Ringwood State Park	Passaic	Green Turtle Pond dam repair; construction
Ringwood State Park	Passaic	Ringwood barn roof replacement; design
Ringwood State Park	Passaic	Ringwood Manor elec- trical renovations; con- struction

State Facility	County	Project
Ringwood State Park	Passaic	Ringwood Manor roof replacement; design
Ringwood State Park	Passaic	Shepherd Lake maintenance complex; construction
Ringwood State Park	Passaic	Skylands Lodge stabilization; design
Shaws Mill Lake management area	Cumberland	Dam repair; planning
Spring Meadow golf course	Monmouth	Course expansion; design
Spring Meadow golf course	Monmouth	Driving range development; construction
Spruce Run recreation area	Hunterdon	Beach patio replacement; design and construction
Stokes State Forest	Sussex	Ocquittunk cabin sanitary facility improvements; design
Swartswood State Park	Sussex	Gas tank replacement; design and construction
Union Lake management area	Cumberland	Dam repair; design
Wawayanda State Park	Sussex Passaic	Day-use facility development; construction
Wharton State Forest	Burlington Camden Atlantic	Green Bank maintenance facility expansion; design
Worthington State Forest	Warren	Campsite access road improvements; construction

b. For State acquisition of the following projects, \$9,750,000.00:

Project	County
Allamuchy State Park	Sussex, Warren
Bear Swamp and Eaglelands	Cumberland
Heislerville gravel pits	Cumberland

Project	County
Higbee Beach	Cape May
Jenny Jump State Forest	Warren
Johnsonburg natural area	Warren
Ken Lockwood Gorge	Hunterdon
Pinelands	Burlington, Ocean, Atlantic
Troy Meadows natural area	Morris
Marine and freshwater access sites	Statewide
Trail corridors	Statewide
Opportunities and contingencies ...	Statewide
Condemnation awards	Statewide
Swartswood State Park	Sussex
Voorhees State Park	Hunterdon
High Point State Park	Sussex
Norvin Green State Forest	Passaic
Hamburg Mountain fish and wildlife management area	Sussex
Whittingham fish and wildlife management area	Sussex

2. There is appropriated to the Department of Environmental Protection from the "Green Trust Fund," established pursuant to section 16 of the "New Jersey Green Acres Bond Act of 1983" (P. L. 1983, c. 354), the sum of \$20,500,000.00 to provide loans to assist local units of government to acquire and develop land for recreation and conservation purposes, which sum shall include administrative costs. The following projects shall be eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project
Atlantic county	Atlantic	Great Egg Harbor Linear Park
Brigantine	Atlantic	Beachfront parks
Buena	Atlantic	Blackwater Pond
Margate City	Atlantic	Lucy's National Historic Park
Bergen county planning board	Bergen	Hackensack River county park

Local Government Unit	County	Project
Bogota	Bergen	Olsen Park, phase II
Carlstadt	Bergen	Lindbergh Field expansion
Cresskill	Bergen	Third Street Park
East Rutherford	Bergen	Marina/waterfront park
East Rutherford	Bergen	Riggin Memorial Field
Fort Lee	Bergen	Christian Home
Fort Lee	Bergen	Lewis Street Park
Franklin Lakes	Bergen	Municipal Park Complex
Haworth	Bergen	Multi-park project
Hillsdale	Bergen	Stonybrook recreation area
Leonia	Bergen	Wood Park
Lyndhurst	Bergen	Riverside Avenue Park
Maywood	Bergen	Thoma Avenue Park
Palisades Park borough	Bergen	Palisades Park athletic field
Burlington township	Burlington	Assiscunk Creek, phase III
Burlington county	Burlington	Smithville Park, phase II
Cinnaminson	Burlington	Memorial Park lighting
Florence	Burlington	Waterworks
Southampton	Burlington	South Branch acquisition
Springfield	Burlington	Springfield Park
Tabernacle	Burlington	Patty Bowker Road fields
Camden	Camden	Northgate Park
Gloucester township	Camden	Coles Road recreation area
Haddon township	Camden	Crystal Lake Park
Lindenwald	Camden	Kirkwood Lake, phase II
Pennsauken	Camden	Tippins Pond
Waterford	Camden	Cooper Road recreation field
Lower	Cape May	Sunset Beach
Ocean City	Cape May	59th Street Fishing Pier
Lawrence	Cumberland	Cedar Lake Park
Millville	Cumberland	Maurice River, phase III
Vineland	Cumberland	Gianpietro Park
Vineland	Cumberland	West Side Park

Local Government Unit	County	Project
Cedar Grove	Essex	Community Park, phase II
East Orange	Essex	Oval Park
Essex county	Essex	Turtle Back Zoo/Environmental Center
Irvington	Essex	Camptown Commons
Irvington	Essex	Chancellor Park, phase II
Irvington	Essex	Center Playground and Parkway Park
Nutley	Essex	Richard Park
Orange	Essex	Frank Stewart Memorial
Roseland	Essex	Kingsland Park
South Orange	Essex	Metcalf Park rehabilitation
West Caldwell	Essex	Roseland recreation area
Elk	Gloucester	Village Square, phase II
Glassboro	Gloucester	Sports complex
Gloucester county	Gloucester	Greenwich Lake
Harrison township	Gloucester	Ella Harris Recreation
Logan	Gloucester	Beckett Area Park
Monroe	Gloucester	Earl E. Owens III
Paulsboro	Gloucester	Lighthouse Park
Washington	Gloucester	Grenloch Lake
Bayonne	Hudson	16th Street Park, phase IV
Kearny	Hudson	Veterans' Memorial Field
Secaucus	Hudson	Schmidt's Woods
Weehawken	Hudson	Boulevard East Promenade
Hamilton	Mercer	Homestead Gardens
Princeton township	Mercer	deMenil property
Princeton township	Mercer	Larson property
Washington	Mercer	Tantum Park
East Brunswick	Middlesex	Senior citizen recreation facility
Highland Park	Middlesex	New riverfront park
Metuchen	Middlesex	Edgar Woods acquisition
New Brunswick	Middlesex	Baker Park

Local Government Unit	County	Project
New Brunswick	Middlesex	Boyd Park rehabilitation
Sayreville	Middlesex	Recreation complex
Woodbridge	Middlesex	Clyde Avenue playground
Hazlet	Monmouth	Tennis courts
Holmdel	Monmouth	Harding tract
Keyport	Monmouth	Waterfront park
Long Branch	Monmouth	Ocean Place, phase II
Middletown	Monmouth	Bicentennial Park
Middletown	Monmouth	Leonardo Beach
Monmouth county	Monmouth	Fisherman's Cove
Monmouth county	Monmouth	Shark River addition
Monmouth county	Monmouth	Thompson Park
Monmouth county	Monmouth	Thompson Park addition
Neptune township	Monmouth	Jumping Brook Park
Red Bank	Monmouth	Maple Avenue boat launch
Red Bank	Monmouth	Mohawk Pond, phase II
Shrewsbury township	Monmouth	Township park
West Long Branch	Monmouth	Ten acre tract
Butler	Morris	Stonybrook improvement
Jefferson	Morris	Lakeside and Ridge Roads parks
Lincoln Park	Morris	Beavertown Park, phase II
Montville	Morris	Indian Lane East
Montville	Morris	Morris Avenue Park
Montville	Morris	Roe-Ri Park
Montville	Morris	Mountain Avenue Park
Morris County Park Commission	Morris	Hedden Park
Morris County Park Commission	Morris	Schooley's Mountain
Morris County Park Commission	Morris	Tourne Park river access
Randolph	Morris	Brundage Park, phase II
Barnegat township	Ocean	Bay Avenue acquisition
Beachwood	Ocean	Waterfront park

c. Notification to parents and pupils, at appropriate times during the school year, of the pupil's progress in meeting the promotion and remediation standards and immediate consultation with the pupil's parent or guardian if, in the teacher's judgment, there is any indication that the pupil's progress may not be sufficient to meet these standards;

d. Procedures for parents and adult pupils to appeal promotion/retention decisions; and

e. Procedures to ensure that parents, teachers and students, where appropriate, participate in the development of the policy.

C. 18A:35-4.10 Rules, regulations.

2. The State Board of Education shall adopt pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) such rules and regulations as are deemed appropriate to carry out the provisions of this act.

3. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 481

AN ACT establishing a needs assessment study and services to address the needs of head injured persons and making an appropriation therefor.

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

1. The Legislature finds and declares that each year many citizens of the State suffer severe head injuries and require intensive rehabilitation in order to regain as much as possible of their pre-injury level of performance; that persons with severe head injuries need specialized rehabilitation programs geared to their specific needs; and that in order to initiate and encourage the development of specialized rehabilitation programs for severely head injured persons and determine the most effective means of providing needed services, it is necessary to conduct a study of the needs of head injured persons and provide outreach and pro-

professional training services within the Department of Human Services.

2. As used in this act:

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

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

c. "Head injured person" means an individual who is the victim of an insult or damage to the skull or the brain contents or its coverings, which insult or damage is not of a degenerative nature and which may produce an altered state of consciousness or result in a temporary or permanent physiobiological decrease of mental, cognitive, behavioral, social or physical functioning and cause partial or total disability.

d. "Sponsor" means a public or private nonprofit agency or organization approved by the commissioner which contracts with the department to conduct a needs assessment study and provide outreach and training services to the State's head injured persons.

3. The commissioner shall contract with a sponsor to carry out the following activities: conduct a comprehensive Statewide assessment of the needs of head injured persons; provide outreach services to identify and assist head injured persons; provide professional training for staff of the department's Division of Developmental Disabilities and other appropriate department staff; conduct a media campaign to inform the public about the causes of head injuries and how they can be prevented; and prepare a comprehensive final report pursuant to section 4 of this act and present this report to the commissioner upon the expiration of the contract.

4. The sponsor's final report shall include, but not be limited to, the following:

a. A comprehensive Statewide listing of programs and services available to head injured persons;

b. An assessment of the needs of head injured persons regarding: housing, employment, vocational training, transportation, specialized medical care, respite care and psychological evaluation and training; and

c. Recommendations to provide comprehensive services to head injured persons, including areas in which new or expanded services are needed and suggestions for model treatment programs.

5. The commissioner shall report to the Governor and Legislature no later than two months following the expiration date of this act concerning the findings of the needs assessment study. The report shall include:

a. The findings and recommendations of the sponsor as provided in the sponsor's final report; and

b. The department's recommendations for Statewide services and programs to meet the needs of head injured persons.

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

7. There is appropriated \$75,000.00 from the General Fund to the Department of Human Services to carry out the purposes of this act.

8. This act shall take effect immediately and shall expire on June 30 following the first anniversary of the effective date.

Approved January 17, 1986.

CHAPTER 482

AN ACT concerning the establishment of small women and minority business enterprise set-aside programs in counties and municipalities.

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

C. 40A:11-41 Definitions.

1. As used in this act:

a. "County or municipal contracting agency" shall mean the governing body of a county or municipality or any department, board, commission, committee, authority or agency of a county or municipality but shall not include school districts;

b. "Minority group members" shall mean persons who are black, Hispanic, Portuguese, Asian-American, American Indian or Alaskan natives;

c. "Qualified women's business enterprise" shall mean a business which has its principal place of business in this State, is inde-

pendently owned and operated, is at least 51% owned and controlled by women and is qualified pursuant to section 25 of P. L. 1971, c. 198 (C. 40A:11-25);

d. "Qualified minority business enterprise" shall mean a business which has its principal place of business in this State, is independently owned and operated, is at least 51% owned and controlled by minority group members and is qualified pursuant to section 25 of P. L. 1971, c. 198 (C. 40A:11-25);

e. "Qualified small business enterprise" shall mean a business which has its principal place of business in this State, is independently owned and operated and meets all other qualifications as may be established in accordance with P. L. 1981, c. 283 (C. 52:27H-21.1 et seq.);

f. "Set-aside contracts" shall mean (1) a contract for goods, equipment, construction, or services which is designated as a contract for which bids are invited and accepted only from qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, (2) a portion of a contract when that portion has been so designated, or (3) any other purchase or procurement so designated; and

g. "Total procurements" shall mean all purchases, contracts or acquisitions of a county or municipal contracting agency, whether by competitive bidding, single source contracting, or other method of procurement, as prescribed or permitted by law.

C. 40A:11-42 Set-aside programs authorized.

2. a. The governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified minority business enterprise set-aside program. In authorizing such a program, the governing body of a county or municipality shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified minority business enterprises.

b. The governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified women's business enterprise set-aside program. In authorizing such a program, the governing body of a county or municipality shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to

be awarded as set-aside contracts to qualified women's business enterprises.

c. The governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified small business enterprise set-aside program. In authorizing such a program, the governing body of a county or municipality shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified small business enterprises.

C. 40A:11-43 Attainment of goals.

3. a. Any goal established pursuant to section 2 of this act may be attained by requiring that a portion of a contract be subcontracted to a qualified small business enterprise, qualified minority business enterprise or qualified women's business enterprise, in addition to designating entire contracts to these enterprises.

b. Each contracting agency shall make a good faith effort to attain any goal established by its governing body. The governing body shall evaluate each contracting agency's efforts by comparing the percentage of the dollar value of a contracting agency's total procurements awarded to qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, to the percentage of the dollar value of the county's or municipality's total procurements awarded to qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate.

C. 40A:11-44 "Local Public Contracts Law" applicable.

4. All provisions of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) and any supplements thereto, shall apply to purchases, contracts and agreements made pursuant to this act unless otherwise superseded by the provisions of this act.

C. 40A:11-45 Designation as set-aside.

5. Notwithstanding the provisions of any law to the contrary, a contracting agency of a county or municipality which has established a qualified small business enterprise set-aside program, a qualified minority business enterprise set-aside program or a qualified women's business enterprise set-aside program shall designate that a contract, subcontract or other means of procurement of goods, services, equipment, or construction be awarded to a qualified small business enterprise, a qualified minority business enterprise or a qualified women's business enterprise, if a

contracting agency is likely to receive bids from at least two qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, at a fair and reasonable price.

Such designations shall be made prior to any advertisement for bids, if required. Once designated, the advertisement for bids, if necessary, shall indicate that the contract to be awarded is a qualified small business enterprise set-aside contract, a qualified minority business enterprise set-aside contract or a qualified women's business enterprise set-aside contract, as appropriate. All advertisements for bids shall be published in at least one newspaper which will best provide notice thereof to qualified small business enterprises, qualified minority business enterprises or to qualified women's business enterprises, as appropriate, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but shall not be published less than 10 days prior to that date.

C. 40A:11-46 Set-aside cancellation.

6. a. If the contracting agency determines that two bids from qualified small, qualified minority or qualified women's businesses cannot be obtained, the contracting agency may withdraw the designation of the set-aside contract and resolicit bids on an unrestricted basis pursuant to the provisions of P. L. 1971, c. 198 (C. 40A:11-1 et seq.). The cancelled designation shall not be considered in determining the percentage of contracts awarded pursuant to subsection b. of section 3 of this act.

b. If the contracting agency determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price, the contracting agency shall reject all bids and withdraw the designation of the set-aside contract. Qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, shall be notified in writing of the set-aside cancellation, the reasons for the rejection and the agency's intent to resolicit bids on an unrestricted basis pursuant to the provisions of P. L. 1971, c. 198 (C. 40A:11-1 et seq.). The cancelled bid solicitation shall not be considered in determining the percentage of contracts awarded pursuant to subsection b. of section 3 of this act.

C. 40A:11-47 False information; penalties.

7. Where the governing body of a county or municipality determines that a business has been classified as a qualified small

business enterprise, qualified minority business enterprise or qualified women's business enterprise on the basis of false information knowingly supplied by the business and has been awarded a contract to which it would not otherwise have been entitled under this act, the governing body shall have the authority to:

a. Assess against the business any difference between the contract and what the governing body's cost would have been if the contract had not been awarded in accordance with the provisions of this act;

b. In addition to the amount due under subsection a., assess against the business a penalty in an amount of not more than 10% of the amount of the contract involved; and

c. Order the business ineligible to transact any business with the governing body or contracting agency of the governing body for a period to be determined by the governing body.

Prior to any final determination, assessment or order under this section, the governing body shall afford the business an opportunity for a hearing on the reasons for the imposition of the penalties set forth in subsection a., b. or c. of this section.

C. 40A:11-48 Annual agency report.

8. Each contracting agency of a county or municipality which has established a qualified small business enterprise set-aside program, a qualified minority business enterprise set-aside program or a qualified women's business enterprise set-aside program shall submit a report to its governing body by January 31 of each year describing the agency's efforts in attaining the set-aside goals and the percentage of the dollar value of total procurements awarded pursuant to subsection b. of section 3 of this act. The governing body shall publish a list of each agency's attainments in the immediately preceding local fiscal year, to include the county or municipal average, in at least one newspaper circulating in the county or municipality, as appropriate, by March 1 of each year.

C. 40A:11-49 Rules, regulations.

9. The Director of the Division of Local Government Services in the Department of Community Affairs may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as he may deem necessary to effectuate the purposes of this act.

10. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 483

AN ACT concerning penalties for the violation of rules and regulations governing the collection and disposal of solid waste, amending P. L. 1970, c. 39, and repealing section 10 thereof.

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

1. Section 9 of P. L. 1970, c. 39 (C. 13:1E-9) is amended to read as follows:

C. 13:1E-9 Enforcement of solid waste regulations.

9. a. All codes, rules and regulations adopted by the department related to solid waste collection and disposal shall have the force and effect of law. Such codes, rules and regulations shall be observed throughout the State and shall be enforced by the department and by every local board of health, or county health department, as the case may be.

The department and the local board of health, or the county health department, as the case may be, shall have the right to enter a solid waste facility at any time in order to determine compliance with the registration statement and engineering design, and with the provisions of all applicable laws or rules and regulations adopted pursuant thereto.

The municipal attorney or an attorney retained by a municipality in which a violation of such laws or rules and regulations adopted pursuant thereto is alleged to have occurred shall act as counsel to a local board of health.

The county counsel or an attorney retained by a county in which a violation of such laws or rules and regulations adopted pursuant thereto is alleged to have occurred shall act as counsel to the county health department.

Any county health department may charge and collect from the owner or operator of any sanitary landfill facility within its jurisdiction such fees for enforcement activities as may be established by ordinance or resolution adopted by the governing body of any such county. Such fees shall be established in accordance with a fee schedule regulation to be adopted by the department, pursuant to law, within 60 days of the effective date of this amendatory act and shall be utilized exclusively to fund such enforcement activities.

All enforcement activities undertaken by county health departments pursuant to this subsection shall conform to all applicable performance and administrative standards adopted pursuant to section 10 of the "County Environmental Health Act," P. L. 1977, c. 443 (C. 26:3A2-28).

b. Whenever the commissioner finds that a person has violated any provision of P. L. 1970, c. 39 (C. 13:1E-1 et seq.), or any rule or regulation adopted, permit issued, or solid waste management plan adopted pursuant to P. L. 1970, c. 39, he shall:

(1) Issue an order requiring the person found to be in violation to comply in accordance with subsection c. of this section;

(2) Bring a civil action in accordance with subsection d. of this section;

(3) Levy a civil administrative penalty in accordance with subsection e. of this section;

(4) Bring an action for a civil penalty in accordance with subsection f. 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.

c. Whenever the commissioner finds that a person has violated any provision of P. L. 1970, c. 39, or any rule or regulation adopted, permit issued, or solid waste management plan adopted pursuant to P. L. 1970, c. 39, he may issue an order specifying the provision or provisions of P. L. 1970, c. 39, or the rule, regulation, permit or solid waste management plan of which the person is in violation, citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of his right to a hearing on the matters contained in the order. The ordered party shall have 20 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, then 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.

d. The commissioner, a local board of health or county health department may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver, for any violation of this act, or of any code, rule or

regulation promulgated, permit issued or solid waste management plan adopted pursuant to this act and said court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief, notwithstanding the provisions of R. S. 48:2-24.

Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;
- (3) Assessment of the violator for any cost incurred by the State in removing, correcting or terminating the adverse effects upon water and air quality resulting from any violation of any provision of this act or any rule, regulation or condition of approval for which the action under this subsection may have been brought;
- (4) Assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by any violation of this act or any rule, regulation or condition of approval established pursuant to this act for which the action under this subsection may have been brought. Assessments under this subsection shall be paid to the State Treasurer, or to the local board of health, or to the county health department, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation.

If a proceeding is instituted by a local board of health or county health department, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the action or proceeding. The department may intervene as a matter of right in any proceeding brought by a local board of health or county health department.

e. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000.00 for each violation and additional penalties of not more than \$2,500.00 for each day during which the violation continues after receipt of an order from the department. No assessment shall 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, order, permit condition or solid waste management plan 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 party's right to a hearing. The ordered party 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 P. L. 1970, c. 39, 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.

f. Any person who violates the provisions of this act or any code, rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than \$25,000.00 per day, to be collected in a civil action commenced by a local board of health, a county health department, or the commissioner.

Any person who violates an administrative order issued pursuant to subsection c. of this section, or a court order issued pursuant to subsection d. of this section, or who fails to pay an administrative assessment in full pursuant to subsection e. of this section is subject upon order of a court to a civil penalty not to exceed \$50,000.00 per day of such violation.

Each day during which the violation continues constitutes an additional, separate and distinct offense. 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 Law Division of the Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

g. Any person who knowingly:

(1) Transports any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(2) Generates and causes or permits to be transported any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(3) Disposes, treats, stores or transports hazardous waste without authorization from the department;

(4) Makes any false or misleading statement to any person who prepares any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department; or

(5) Makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department 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 more than \$25,000.00 for the first offense and not more than \$50,000.00 for the second and each subsequent offense and restitution, in addition to any other appropriate disposition authorized by subsection b. of N. J. S. 2C:43-2.

h. Any person who recklessly:

(1) Transports any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(2) Generates and causes or permits to be transported any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(3) Disposes, treats, stores or transports hazardous waste without authorization from the department;

(4) Makes any false or misleading statement to any person who prepares any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department; or

(5) Makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department, shall, upon conviction, be guilty of a crime of the fourth degree.

i. Any person who, regardless of intent, generates and causes or permits any hazardous waste to be transported, transports, or receives transported hazardous waste without completing and submitting to the department a hazardous waste manifest in accordance with the provisions of this act or any rule or regulation adopted

pursuant hereto shall, upon conviction, be guilty of a crime of the fourth degree.

j. All conveyances used or intended for use in the willful discharge, in violation of the provisions of P. L. 1970, c. 39 (C. 13:1E-1 et seq.), of any solid waste, or hazardous waste as defined in P. L. 1976, c. 99 (C. 13:1E-38 et seq.) are subject to forfeiture to the State pursuant to the provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.).

k. The provisions of N. J. S. 2C:1-6 to the contrary notwithstanding, a prosecution for a violation of the provisions of subsection g., subsection h. or subsection i. of this section shall be commenced within five years of the date of discovery of the violation.

Repealer.

2. Section 10 of P. L. 1970, c. 39 (C. 13:1E-10) is repealed.

3. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 484

AN ACT concerning the permanent appointment of certain individuals to the position of housing police officer or housing policeman.

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

C. 11:21-5.5 Housing police appointment.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, an individual may be appointed to the position of housing police officer or housing policeman in the permanent civil service if, on the effective date of this act, that person:

a. Is serving as a housing police officer or housing policeman;

b. Has not less than 10 consecutive years' experience as a housing policeman, housing guard, housing police officer, or any combination thereof;

c. Has successfully completed a certified Police Academy Training Course in the State of New Jersey or shall do so within 60 days of the effective date of this act; and

d. Has taken and passed the appropriate civil service open competitive examination.

2. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 485

AN ACT concerning investments by certain domestic insurers and amending N. J. S. 17B:20-1, N. J. S. 17B:20-2 and N. J. S. 17B:20-4.

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

1. N. J. S. 17B:20-1 is amended to read as follows:

Authorized investments by insurers.

17B:20-1. Any domestic insurer may invest its capital, surplus and other funds, or any part thereof, in:

a. Bonds, notes, or other evidences of indebtedness or public stock issued, created, insured or guaranteed by the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada, or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing.

b. Real estate which may be improved or which is unimproved but acquired in accordance with a definite plan for development within not more than five years, and in the improvement, development, operation or leasing thereof; provided, that if the commissioner shall determine that the interest of such insurer's policyholders requires that any specific real estate so acquired be disposed of, then such insurer shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, that the sum of (1) the aggregate amount invested in such real estate (including real estate held pursuant to section 17B:18-45 of this Title) and (2) the aggregate amount invested in capital stock of any subsidiary of the insurer pursuant to section 17B:20-4, engaged in a business primarily involving the owning,

improving, developing, operating or leasing of real estate, shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding. Real estate used primarily for agricultural, horticultural, ranching, mining, forestry or recreational purposes shall be deemed improved within the meaning of this subsection b. The term "real estate" as used in this chapter shall include any real property and any interest therein, including, without limitation, any interest on, above or below the surface of the land, any leasehold estate therein, and any such interest held or to be held by the insurer in cotenancy with one or more other persons and any partnership interest held by the insurer in any general or limited partnership engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate. Income produced by investment in any such leasehold shall be applied in a manner calculated to amortize the amount invested in such leasehold within a period not exceeding eight-tenths of the unexpired term of the leasehold, inclusive of enforceable options, or within 40 years, whichever is the lesser, or where the peculiar nature of the leasehold involved so dictates, within such period and subject to such other reasonable limitations as the commissioner shall by regulation impose. For the purposes of this subsection b., a mortgage loan shall not be deemed to be an investment in real estate, notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner, or otherwise. The commissioner may promulgate a regulation in connection with investments under this subsection b. which shall, as far as practicable, be consistent with those regulations of the department which treat with securities supported by such interests in real estate.

c. Mortgage loans on unencumbered real estate, located within the United States, any territory or possession thereof, the Commonwealth of Puerto Rico or Canada. The amount of any such loan shall not exceed 80% of the value of the real estate mortgaged unless (1) the loan is also secured by the mortgagor's interest in a lease or leases whose aggregate rentals shall be sufficient, after payment of operating expenses and fixed charges, to repay 90% of the loan with interest thereon during the initial term or terms of such lease or leases and shall be payable directly or indirectly by any governmental units, instrumentalities, agencies or political subdivisions or an institution or institutions which meet the credit standards of the insurer for an unsecured loan to such institution or institutions or (2) the loan is secured by a purchase money

mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this Title or (3) the excess over such 80% is insured or guaranteed or to be insured or guaranteed by the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing. Any mortgage loan so insured or guaranteed or to be insured or guaranteed shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be charged or taken upon any such loan.

Any such insurer may hold a participation in any such mortgage loan if (1) such participation is senior and gives the holder substantially the rights of a first mortgagee or (2) the interest of such insurer in the evidence or evidences of indebtedness is of equal priority, to the extent of such interest, with other interests therein.

Any such mortgage loan which exceeds two-thirds of the value of the real estate mortgaged shall provide for such payments of principal, whatever the period of the loan, that at no time during the period of the loan shall the aggregate payments of principal theretofore required to be made under the terms of the loan be less than would have been necessary to reduce the loan to two-thirds of such value by the end of 35 years through payments of interest only for five years and equal payments applicable first to interest and then to principal at the end of each year thereafter. The commissioner may promulgate such supplemental regulations as he deems necessary with regard to particular classes of such investments, taking into consideration the type of security and the ratio of the loan to the value of the real estate mortgaged. No loan may be made on leasehold real estate unless the terms of such loan provide for payments to be made by the borrower on the principal thereof in amounts sufficient to completely repay the loan within a period not exceeding nine-tenths of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made.

Real estate shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, or encumbrances that do not adversely affect the salability of the property to a material extent or as to which the insurer is insured against loss by title

insurance, or any prior mortgage or mortgages held by such insurer if the aggregate of the mortgages held shall not exceed the amount hereinbefore set forth, nor when such real estate is subject to lease in whole or in part; provided, that the security created by the mortgage on such real estate is a first lien thereon. Real estate shall not be deemed to be encumbered and the security of the mortgage thereon shall be deemed a first lien within the meaning of this subsection c., notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner or otherwise.

No such insurer shall, pursuant to this subsection c., invest more than 2% of its total admitted assets as of December 31 next preceding in any mortgage loan secured by any one property, nor shall its total mortgage investments pursuant to this subsection c., exclusive of any mortgage loans secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this Title or insured or guaranteed or to be insured or guaranteed as hereinbefore provided, exceed 60% of such admitted assets.

d. Tangible personal property, equipment trust obligations or other instruments evidencing an ownership interest or other interest in tangible personal property where there is a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such personal property, provided, that the aggregate of such payments, together with the estimated salvage value of such property at the end of its minimum useful life and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that the aggregate net investments therein shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding; or certificates of receivers of any institution where such purchase is necessary to protect an investment in the securities of such institution theretofore made under authority of this chapter; or the capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness issued, assumed or guaranteed by any institution created or existing under the laws of the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof; provided, that no purchase of any evidence of indebtedness which is in default as to interest

shall be made by such insurer unless such purchase is necessary to protect an investment theretofore made under statutory authority.

The term "institution" as used in this chapter shall include any corporation, joint stock association, business trust, business joint venture, business partnership, savings and loan association, credit union or other mutual savings institution. No purchase shall be made of the stock of any class of any corporation, except a subsidiary of the insurer pursuant to section 17B:20-4, unless (1) such corporation has paid cash dividends on such class of stock during each of the past five years preceding the time of purchase or (2) such corporation shall have earned during the period of such five years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period averaging 4% per annum computed upon the par value (or in the case of stock having no par value, upon the stated capital in respect thereof) of such stock. In the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise less than five years prior to such purchase, each consecutive year next preceding the effective date of such merger, consolidation or acquisition during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each of such years; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made by any insurer except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurers.

e. Securities, properties and other investments in foreign countries, in addition to those specified in section 17B:20-5, which are substantially of the same character as prescribed for authorized investments for funds of the insurer under the preceding subsections of this section, to an amount valued at cost, not exceeding in the aggregate at any one time 2% of the total admitted assets

of such insurer as of December 31 next preceding; provided, however, that the amount invested in authorized investments in any one foreign country pursuant to this subsection e. shall not exceed in the aggregate, at any one time, 1% of such admitted assets. For the purposes of this subsection e., Canada shall not be deemed to be a foreign country.

f. Bonds, notes, or other evidences of indebtedness, issued, insured or guaranteed or to be insured or guaranteed by the International Bank for Reconstruction and Development, or by the Inter-American Development Bank, or by the Asian Development Bank, or by the African Development Bank, except that no funds invested in obligations issued, insured or guaranteed by the African Development Bank shall be used in or shall go to South Africa.

g. Collateral loans secured by a pledge of capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness qualified or permitted for investment under any of the preceding subsections of this section. The amount of any such loan shall not exceed 80% of the market value of the security pledged at the date of the loan.

h. Loans or investments which are not qualified or permitted under any of the preceding subsections of this section or which are not otherwise expressly authorized by law; provided, that the aggregate amount of such loans and investments, valued at cost, shall not exceed at any one time 5% of the total admitted assets of such insurer as of December 31 next preceding.

For the purposes of subsection c. and this subsection h., the portion of a mortgage loan on unencumbered real estate which does not exceed 80% of the value of the real estate mortgaged shall be deemed to be a permitted investment under subsection c. and the remainder of said loan may be deemed to be made under this subsection h. Any investment originally made under this subsection h. which would subsequently, if it were being made, qualify as a permitted investment under another subsection of this section shall thenceforth be deemed to be a permitted investment under such other subsection.

2. N. J. S. 17B:20-2 is amended to read as follows:

8% voting stock limit.

17B:20-2. No domestic insurer shall purchase more than 8% of the voting stock of any one corporation, unless it be: a municipal corporation; a subsidiary of such insurer pursuant to section

17B:20-4; or an investment company within the meaning of the Investment Company Act of 1940 for which such insurer or its subsidiary is the investment manager or investment adviser, provided, that such investment company shall not own, control or hold in its portfolio any investment which, if added to the other investments of such insurer, would result in such insurer holding more than 8% of the voting stock of any one corporation. The term "voting stock" of any corporation shall mean any shares of capital stock of such corporation having general voting power under ordinary circumstances, when voting (together with one or more other classes, if any) as a class, to elect a majority of the board of directors of such corporation, irrespective of whether or not at the time stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency. No such insurer shall hold more than 8% of any such class of stock of any investment company pursuant to this section at any time when such insurer could not purchase such stock pursuant to the foregoing provisions of this section. The amount (excluding amounts invested in the common stock of any corporation pursuant to sections 17B:20-3 and 17B:20-4) invested by a domestic insurer (a) in the common stock of any one corporation shall not exceed 2% of the total admitted assets of such insurer as of December 31 next preceding, or (b) in the common stock of all corporations valued at cost shall not exceed 15% of such assets, except that to the extent that such aggregate investment in common stock exceeds 10% of such assets, further investments shall be subject to regulation by the commissioner under a formula which shall take into consideration the actual mandatory securities valuation reserve, as defined by the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners, held by a company which is applicable to such common stock in the corresponding annual statement filed with the department. The term "common stock" shall mean any voting stock of any class of a corporation which shall not be limited to a fixed sum or percentage of par value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the corporation. Neither shall the amount invested in the beneficial shares or other ownership interests (other than common stock), evidences of indebtedness (excluding amounts invested in mortgage loans pursuant to subsection c. of section 17B:20-1), preferred stock and certificates of receivers of any one institution exceed 5% of such

assets of the insurer. Nothing herein contained shall prevent any such insurer from purchasing, or in any other way acquiring the voting stock of, or otherwise investing in certain corporations as hereinafter provided in sections 17B:20-3 and 17B:20-4.

The total amount of admitted assets invested in the types of investments authorized by subsections b. and c. of N. J. S. 17B:20-1 shall not, in the aggregate, exceed 60% of the domestic insurer's total admitted assets.

All investments made by any such insurer shall be authorized or approved by the board of directors, or by a committee thereof charged with the duty of supervising such investment, or shall be made in conformity with standards approved by such board of directors or such committee.

No such insurer shall enter into any agreement to withhold from sale any of its property or jointly or severally enter into any agreement to purchase the unsold amount of securities which are the subject of an offering for sale to the public or otherwise to guarantee the sale of such securities.

Nothing contained in this section shall prevent any such insurer from distributing shares of an investment company within the meaning of the Investment Company Act of 1940 for which such insurer or its subsidiary is the investment manager or investment adviser.

The term "Investment Company Act of 1940" as used in this section shall mean an Act of Congress approved August 22, 1940 entitled "Investment Company Act of 1940," as amended from time to time, or any similar statute enacted in substitution therefor.

3. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 486

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development

20-2800 Economic Development \$5,000,000

Special Purpose:

State matching funds for the construction of the New Jersey Science/Technology Center at Liberty State Park (\$5,000,000)

The funds herein appropriated shall be distributed upon certification by the Director of the Division of Budget and Accounting that the New Jersey Science/Technology Center, Inc. has received pledges of private funds for the construction of the center in an amount of not less than \$15,000,000.00.

2. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 487

AN ACT appropriating monies from the Community Development Bond Fund for the purpose of capitalization of the New Jersey Local Development Financing Fund.

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

1. There is appropriated to the Department of Commerce and Economic Development from the Community Development Bond Fund, created pursuant to the "Community Development Bond

Act of 1982," P. L. 1981, c. 486, the sum of \$30,000,000.00 for the capitalization of the New Jersey Local Development Financing Fund, created pursuant to the "New Jersey Local Development Financing Fund Act," P. L. 1983, c. 190 (C. 34:1B-36 et seq.). The expenditure of these funds by the Department of Commerce and Economic Development shall be according to a formula which is equitable to all regions and all counties of the State.

2. The expenditure of the sum appropriated by this act is subject to the provisions of P. L. 1983, c. 190 (C. 34:1B-36 et seq.). The terms and form of agreement of loans from the fund are subject to the prior approval of the New Jersey Economic Development Authority by a vote of a majority of its members.

3. Expenditures from the fund for administrative costs are subject to the prior approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

4. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 488

AN ACT concerning motor vehicle registration plates for certain members of the New Jersey National Guard and amending P. L. 1979, c. 456.

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

1. Section 1 of P. L. 1979, c. 456 (C. 39:3-27.13) is amended to read as follows:

C. 39:3-27.13 National Guard registration plates.

1. a. Upon the application of any person who is an active member of the New Jersey National Guard, or former active member who has been honorably separated from the New Jersey National Guard, as certified in either case by the Adjutant General, New Jersey Department of Defense, the Director of the Division of Motor Vehicles shall issue for the motor vehicle owned by such person special registration plates, of a design and at a fee to be pre-

scribed by the director, identifying the holder as a member or former member of the "Air National Guard" or "Army National Guard," as the case may be, in addition to the registration number and other markings or identification otherwise prescribed by law.

b. The director shall permit any person who is an active member of the New Jersey National Guard with special National Guard registration plates to affix a National Guard "Minuteman" emblem, of a design approved by the director and the Adjutant General, New Jersey Department of Defense, to their registration plates in a manner approved by the director.

2. Section 2 of P. L. 1979, c. 456 (C. 39:3-27.14) is amended to read as follows:

C. 39:3-27.14 Interdepartmental rules, regulations.

2. The Director of the Division of Motor Vehicles and the Adjutant General of the State Department of Defense shall promulgate and adopt interdepartmental rules and regulations governing the issuance and use of such registration plates, the design and affixation of the Minuteman emblem, and providing for their surrender by persons who cease to be members of the New Jersey National Guard for reasons other than honorable separation.

3. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 489

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

06-2535 Museum Services \$220,400

Special purpose:

Preservation of State House Portraits (\$220,400)

2. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 490

AN ACT concerning the establishment of small, women and minority businesses set-aside programs by boards of education and revising parts of the statutory law.

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

C. 18A:18A-51 Definitions.

1. (New section) As used in this act:

a. "Minority group members" means persons who are black, Hispanic, Portuguese, Asian-American, American Indian or Alaskan natives;

b. "Qualified women's business enterprise" means a business which has its principal place of business in the State, is independently owned and operated and at least 51% of which is owned and controlled by women and which is qualified pursuant to N. J. S. 18A:18A-27;

c. "Qualified minority business enterprise" means a business which has its principal place of business in the State, is independently owned and operated and at least 51% of which is owned and controlled by minority group members and which is qualified pursuant to N. J. S. 18A:18A-27;

d. "Qualified small business enterprise" means a business which has its principal place of business in the State, is indepen-

dently owned and operated, meets all other qualifications as may be established in accordance with P. L. 1981, c. 283 (C. 52:27H-21.1 et seq.) and which is qualified pursuant to N. J. S. 18A:18A-27;

e. "Set-aside contract" means (1) a contract for goods, equipment, construction, or services which is designated as a contract for which bids are invited and accepted only from qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, (2) a portion of a contract when that portion has been so designated, or (3) any other purchase or procurement so designated; and

f. "Total procurements" means all purchases, contracts or acquisitions of a board of education, whether by competitive bidding, single source contracting, or other method of procurement, as prescribed or permitted by law.

C. 18A:18A-52 Set-aside programs authorized.

2. (New section) a. A board of education may, by resolution, establish a qualified minority business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified minority business enterprises.

b. A board of education may, by resolution, establish a qualified women's business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified women's business enterprises.

c. A board of education may, by resolution, establish a qualified small business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified small business enterprises.

C. 18A:18A-53 Attainment of goals.

3. (New section) a. Any goal established pursuant to section 2 of this act may be attained by requiring that a portion of a contract shall be subcontracted to a qualified small business enterprise, qualified minority business enterprise or qualified women's business enterprise, in addition to designating entire contracts to these enterprises.

b. Each board of education shall make a good faith effort to attain any goal established.

C. 18A:18A-54 "Public School Contracts Law" applicable.

4. (New section) All provisions of the "Public School Contracts Law," N. J. S. 18A:18A-1 et seq., and any supplements thereto, shall apply to purchases, contracts and agreements made pursuant to this act unless otherwise superseded by the provisions of this act.

C. 18A:18A-55 Designation of contracts.

5. (New section) Notwithstanding the provisions of any law to the contrary, a board of education which has established a qualified small business enterprise set-aside program, a qualified minority business enterprise set-aside program or a qualified women's business enterprise set-aside program shall designate that a contract, subcontract or other means of procurement of goods, services, equipment, or construction shall be awarded to a qualified small business enterprise, a qualified minority business enterprise or a qualified women's business enterprise, if the board is likely to receive bids from at least two qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, at a fair and reasonable price.

The designations shall be made prior to any advertisement for bids, if required. Once designated, the advertisement for bids, if necessary, shall indicate that the contract to be awarded is a qualified small business enterprise, a qualified minority business enterprise set-aside contract or a qualified women's business enterprise set-aside contract, as appropriate. All advertisements for bids shall be published in at least one newspaper which will best provide notice thereof to qualified small business enterprises, qualified minority business enterprises or to qualified women's business enterprises, as appropriate, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but shall not be published less than 10 days prior to that date.

C. 18A:18A-56 Withdrawal of designation.

6. (New section) a. If the board of education determines that two bids from qualified small businesses, minority or women's businesses cannot be obtained, the board may withdraw the designation of the set-aside contract and resolicit bids on an unrestricted

basis pursuant to the provisions of N. J. S. 18A:18A-1 et seq. The cancelled designation shall not be considered in determining whether or not the board attained its goal established pursuant to section 2 of this act.

b. If the board of education determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price, the board shall reject all bids and withdraw the designation of the set-aside contract. Qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, shall be notified in writing of the set-aside cancellation, the reasons for the rejection and the board's intent to resolicit bids on an unrestricted basis pursuant to the provisions of N. J. S. 18A:18A-1 et seq. The cancelled bid solicitation shall not be considered in determining whether or not the board attained its goal established pursuant to section 2 of this act.

C. 18A:18A-57 Annual report.

7. (New section) Any board of education which has established a qualified small business set-aside program, a qualified minority business enterprise set-aside program or a qualified women's business enterprise set-aside program shall prepare a report by January 31 of each year describing the board's efforts in attaining the set-aside goals and the percentage of the dollar value of total procurements awarded in the immediately preceding local fiscal year. The board of education shall publish a list of its attainments in at least one newspaper circulating in the school district by March 1 of each year.

C. 18A:18A-58 Rules, regulations.

8. (New section) The State Board of Education, or any State department or agency the State board may designate, may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem necessary to effectuate the purposes of this act.

9. 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, sup-

plies 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 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 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 qualified small business enterprise, qualified minority business enterprise or a qualified women's business enterprise pursuant to P. L. 1985, c. 490 (C. 18A:18A-51 et seq.).

10. Section 8 of P. L. 1962, c. 37 (C. 10:5-2.1) is amended to read as follows:

C. 10:5-2.1 Other laws unaffected.

8. Nothing contained in this act or in P. L. 1945, c. 169 (C. 10:5-1 et seq.) shall be construed to require or authorize any act pro-

hibited by law, nor to prevent the award of a contract to a qualified small business enterprise, qualified minority business enterprise or qualified women's business enterprise under P. L. 1985, c. 490 (C. 18A:18A-51 et seq.), nor to conflict with the provisions of chapter 2 (child labor) of Title 34 of the Revised Statutes, nor to require the employment of any person under the age of 18, nor to prohibit the establishment and maintenance of bona fide occupational qualifications or the establishment and maintenance of apprenticeship requirements based upon a reasonable minimum age, nor to prevent the termination or change of the employment of any person who in the opinion of the employer, reasonably arrived at, is unable to perform adequately the duties of employment, nor to preclude discrimination among individuals on the basis of competence, performance, conduct or any other reasonable standards, nor to interfere with the operation of the terms or conditions and administration of any bona fide retirement, pension, employee benefit or insurance plan or program, including any State or locally administered public retirement system, provided that the provisions of those plans or programs are not used to establish an age for mandatory retirement.

11. N. J. S. 18A:18A-15 is amended to read as follows:

Specifications generally.

18A:18A-15. Specifications generally. Any specifications for an acquisition under this chapter, 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 chapter 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 school district 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; 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 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 board of education may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract or agreement.

The specifications for every contract for public work, the entire cost whereof will exceed \$20,000.00, shall provide that the board of education, through its authorized agent, shall upon completion of the contract report to the department as to the contractor's performance, and shall also furnish such report from time to time during performance if the contractor is then in default.

Any specification adopted by the board of education 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 such purchase, contract or agreement shall be readvertised, and the original purchase, contract or agreement shall be set aside by the board of education.

No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a qualified small business enterprise, a qualified minority business enterprise or a qualified women's business enterprise pursuant to P. L. 1985, c. 490 (C. 18A:18A-51 et seq.).

12. N. J. S. 18A:18A-21 is amended to read as follows:

Advertisements for bids; bids; general requirements.

18A:18A-21. Advertisements for bids; bids; general requirements. Except as provided in section 5 of P. L. 1985, c. 490 (C. 18A:18A-55), 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. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the board of education shall be sealed and shall be opened only for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the board of education shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made in the minutes of the board. No bids shall be received after the time designated in the advertisement.

C. 18A:18A-59 False information; penalties.

13. Where the local board of education determines that a business has been classified as a qualified small business enterprise, qualified minority business enterprise or qualified women's business enterprise on the basis of false information knowingly supplied by the business and has been awarded a contract to which it would not otherwise have been entitled under this act, local board of education shall have the authority to:

a. Assess the business any difference between the contract amount and what the local board of education's cost would have been if the contract had not been awarded in accordance with the provisions of this act;

b. In addition to the amount due under subsection a., assess the business a penalty in an amount of not more than 10% of the amount of the contract involved; and

c. Order the business ineligible to transact any business with the local board of education for a period to be determined by the local board of education.

Prior to any final determination, assessment or order under this section, the local board of education shall afford the business an opportunity for a hearing on the reasons for the imposition of the penalties set forth in subsection a., b. or c. of this section.

14. This act shall take effect immediately.

Approved January 17, 1986.

CHAPTER 491

AN ACT concerning the training of policemen and amending and supplementing P. L. 1961, c. 56.

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

1. Section 2 of P. L. 1961, c. 56 (C. 52:17B-67) is amended to read as follows:

C. 52:17B-67 Definitions.

2. Definitions. As used in this act:

“Approved school” shall mean a school approved and authorized by the Police Training Commission to give police training courses as prescribed in this act.

“Commission” shall mean the Police Training Commission or officers or employees thereof acting on its behalf.

“County” shall mean any county which within its jurisdiction has or shall have a law enforcement unit as defined in this act.

“Law enforcement unit” shall mean any police force or organization in a municipality or county which has by statute or ordinance the responsibility of detecting crime and enforcing the general criminal laws of this State.

“Municipality” shall mean a city of any class, township, borough, village, camp meeting association, or any other type of municipality in this State which, within its jurisdiction, has or shall have a law enforcement unit as defined in this act.

“Permanent appointment” shall mean an appointment having permanent status as a police officer in a law enforcement unit as prescribed by Title 11, Revised Statutes, Civil Service Rules and Regulations, or of any other law of this State, municipal ordinance, or rules and regulations adopted thereunder.

“Police officer” shall mean any employee of a law enforcement unit, including sheriff’s officers and county investigators in the office of the county prosecutor, other than civilian heads thereof, assistant prosecutors and legal assistants, persons appointed pursuant to the provisions of R. S. 40:47-19, persons whose duties do not include any police function, court attendants and county correction officers.

2. Section 5 of P. L. 1961, c. 56 (C. 52:17B-70) is amended to read as follows:

C. 52:17B-70 Police Training Commission; establishment; membership.

5. Police Training Commission; establishment; membership.

There is hereby established in the Division of Criminal Justice in the Department of Law and Public Safety a Police Training Commission whose membership shall consist of the following persons:

a. Two citizens of this State who shall be appointed by the Governor with the advice and consent of the Senate for terms of three years commencing with the expiration of the terms of the citizen members, other than the representative of the New Jersey Office of the Federal Bureau of Investigation, now in office.

b. The president or other representative designated in accordance with the bylaws of each of the following organizations: the New Jersey State Association of Chiefs of Police; the New Jersey State Patrolmen's Benevolent Association, Inc.; the New Jersey State League of Municipalities; the New Jersey State Lodge, Fraternal Order of Police; the County Prosecutors' Association of New Jersey and the Sheriffs' Association of New Jersey.

c. The Attorney General, the Superintendent of State Police, the Commissioner of Education, the Chancellor of Higher Education, ex officio, or when so designated by them, their deputies.

d. The Special Agent in Charge of the State of New Jersey for the Federal Bureau of Investigation or his designated representative.

3. Section 6 of P. L. 1961, c. 56 (C. 52:17B-71) is amended to read as follows:

C. 52:17B-71 Powers of commission.

6. The commission is vested with the power, responsibility and duty:

a. To prescribe standards for the approval and continuation of approval of schools at which police training courses authorized by this act and in-service police training courses shall be conducted, including but not limited to presently existing regional, county, municipal and police chief association police training schools;

b. To approve and issue certificates of approval to such schools, to inspect such schools from time to time, and to revoke any approval or certificate issued to such schools;

c. To prescribe the curriculum, the minimum courses of study, attendance requirements, equipment and facilities, and standards of operation for such schools. Courses of study in crime prevention may be recommended to the Police Training Commission by the Crime Prevention Advisory Committee, established by section 2 of P. L. 1985, c. 1 (C. 52:17B-77.1). The Police Training Commission may prescribe psychological and psychiatric examinations for police recruits while in such schools;

d. To prescribe minimum qualifications for instructors at such schools and to certify, as qualified, instructors for approved police training schools and to issue appropriate certificates to such instructors;

e. To certify police officers who have satisfactorily completed training programs and to issue appropriate certificates to such police officers;

f. To advise and consent in the appointment of an administrator of police services by the Attorney General pursuant to section 8 of P. L. 1961, c. 56 (C. 52:17B-73);

g. (Deleted by amendment, P. L. 1985, c. 491.)

h. To make such rules and regulations as may be reasonably necessary or appropriate to accomplish the purposes and objectives of this act;

i. To make a continuous study of police training methods and to consult and accept the cooperation of any recognized federal or State law enforcement agency or educational institution;

j. To consult and cooperate with universities, colleges and institutes in the State for the development of specialized courses of study for police officers in police science and police administration;

k. To consult and cooperate with other departments and agencies of the State concerned with police training;

l. To participate in unified programs and projects relating to police training sponsored by any federal, State, or other public or private agency;

m. To perform such other acts as may be necessary or appropriate to carry out its functions and duties as set forth in this act;

n. To extend the time limit for satisfactory completion of police training programs upon a finding that health, extraordinary workload or other factors have, singly or in combination, effected a delay in the satisfactory completion of such training programs;

o. To furnish approved schools, for inclusion in their regular police training courses and curriculum, with information concerning the advisability of high speed chases, the risk caused thereby, and the benefits resulting therefrom.

4. Section 8 of P. L. 1961, c. 56 (C. 52:17B-73) is amended to read as follows:

C. 52:17B-73 Organization of commission; quorum.

8. Organization of commission; quorum. The Attorney General shall be the chairman of the commission. The Attorney General is empowered to appoint an administrator of police services to the commission after obtaining the advice and consent of the commission and may employ other persons as may be necessary to carry out the provisions of this act, and to fix their compensation and the compensation of the administrator of police services within the limits of available appropriations. The commission, at its initial organization meeting to be held promptly after the appointment and qualification of its members, and thereafter at each annual organization meeting to be held on the first Monday in February, shall select a vice-chairman from among its members, and shall meet at such other times within the State of New Jersey as its may determine. A majority of the commission shall constitute a quorum for the transaction of any business, the performance of any duty, or for the exercise of any of its powers.

5. (New section) The transfer of personnel and responsibilities to the Division of Criminal Justice directed by this act shall be made in accordance with the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.). Nothing in this act shall be construed to deprive any employee transferred to the Division of Criminal Justice under this act of any rights or protection provided him by the civil service, pension, or retirement laws of this State prior to his transfer.

6. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 492

AN ACT concerning processors of goods and amending sections 2A:44-157, 2A:44-158, and 2A:44-159 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:44-157 is amended to read as follows:

Definitions.

2A:44-157. Definitions. As used in this article:

“Processor” means a person engaged in the business of spinning, throwing, manufacturing, bleaching, mercerizing, dyeing, weighting, printing, finishing, dressing, scraping or otherwise treating or processing of linen, cotton, wool, silk, artificial silk, yarns, synthetic fibers or goods, skins, pelts, furs or hides, or goods of which linen, cotton, wool, silk, artificial silk, yarns, synthetic fibers, skins, pelts, furs or hides form a component part.

“Debtor” means a person indebted to a “processor” for labor performed or materials furnished in and about the business mentioned in the preceding paragraph of this section.

“Owner” means a person having title to the property herein described, either at law or in equity, or having a lien or encumbrance thereon or an interest in the same, other than the lien of the processor herein created.

“Person” includes a natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.

“Property” includes linen, cotton, wool, silk, artificial silk, yarns, synthetic fibers or goods, skins, pelts, furs or hides, or goods of which linen, cotton, wool, silk, artificial silk, yarns, synthetic fibers, skins, pelts, furs or hides form a component part.

2. N. J. S. 2A:44-158 is amended to read as follows:

Property subject to lien.

2A:44-158. Property subject to lien. a. A processor shall be entitled to a lien upon the property of others which comes into the

processor's possession, for the entire indebtedness owed to the processor by the person as a result of the processor having performed labor or having furnished materials for that person in and about the spinning, throwing, manufacturing, bleaching, mercerizing, dyeing, weighting, printing, finishing, dressing or scraping, or otherwise treating or processing or shipping, trucking and storing of said property.

b. A processor shall be entitled to a lien upon the property of any person which comes into the processor's possession at a time when that person is indebted to the processor for labor previously performed or materials previously furnished or both in or about the spinning, throwing, manufacturing, bleaching, mercerizing, dyeing, weighting, printing, finishing, dressing or scraping, or otherwise treating or processing or shipping, trucking or storing of other property of the debtor previously released, delivered, relinquished, shipped or surrendered by the processor, for the entire indebtedness owed to the processor by the debtor.

3. N. J. S. 2A:44-159 is amended to read as follows:

Waiver or impairment of lien; assignment.

2A:44-159. Waiver or impairment of lien; assignment. The lien under section 2A:44-158 of this title shall not be affected in any way by the recovery of a judgment or the taking of a bill or note for the money due for labor or material; or by the processor having released, delivered, relinquished, shipped or surrendered property of the debtor without having been paid in full at the time of the release, delivery, relinquishment, shipment or surrender; or by any extension of credit by the processor to any person at any time. The lien may be enforced as though the judgment had not been recovered; the bill or note had not been taken; the goods had not been released, delivered, relinquished, shipped or surrendered without full payment; or the processor had not agreed to extend credit. The lien and the indebtedness under section 2A:44-158 of this title may be assigned without impairing the lien, and the lien may be enforced by the assignee directly, or on his behalf by the assignor, to the extent of the indebtedness so assigned.

4. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 493

AN ACT concerning higher education services for handicapped students and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:72H-1 Short title.

1. This act shall be known and may be cited as the "Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Act."

C. 18A:72H-2 Findings, declarations.

2. The Legislature finds and declares that:

a. It is a fundamental aspiration of the people of New Jersey that individuals are afforded the opportunity to be educated to an extent consistent with their potential and desire;

b. Accordingly, it is an appropriate act of State government, in furtherance of this aspiration, to make available appropriate support services to those individuals who are able to attend college by virtue of their potential and desire, but whose educational progress and success is hampered by conditions of visual impairment, auditory impairment or a specific learning disability; and

c. It is the intent and purpose of the Legislature that the implementation of this act shall significantly improve the access to, and appropriate supportive services for, college education in the State for individuals with a specific learning disability, visual impairment or auditory impairment who are otherwise able to attend college; and it is reasonably anticipated that, in addition to the primary benefits accruing to individuals who receive direct services, the implementation of this act will produce significant benefits in New Jersey for all handicapped individuals, including increasing the understanding of handicapping conditions, promoting research and development of techniques and approaches to offset handicapping conditions, and providing for the integration of comprehensive supportive services in institutions of higher education.

C. 18A:72H-3 Definitions.

3. As used in this act:

a. "Auditorily impaired" means a hearing impairment of such severity that the individual depends primarily upon visual communication.

b. "Competent authority" means any doctor of medicine or any doctor of osteopathy licensed to practice medicine and surgery in this State.

c. "Department" means the Department of Higher Education.

d. "Eligible student" means any student admitted to a public or independent institution of higher education who is suffering from a visual impairment, auditory impairment or a specific learning disability within guidelines established by the Department of Higher Education pursuant to regulations promulgated under this act.

e. "Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Learning disability" means a significant barrier to learning caused by a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The disorder includes conditions such as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. This term shall not include learning problems which are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional disturbances, or environmental, cultural, or economic disadvantage.

g. "Program" means the Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Program established pursuant to this act.

h. "Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the State colleges and the county colleges.

i. "Support services" or "supportive services" means services that assist eligible students in obtaining a college education and include, but are not limited to, interpreters, note takers, and tutors.

j. "Visually impaired" means a vision impairment where the better eye with correction does not exceed 20/200 or where there is a field defect in the better eye in which the diameter of the field is no greater than 20 degrees.

C. 18A:72H-4 Program established.

4. There is established a Higher Education Services for Visually Impaired, Auditorily and Learning Disabled Students Program within the Department of Higher Education. The program shall provide appropriate support services for eligible students attending a public or independent institution of higher education within the State and promote research and development of techniques and approaches to offset handicapping conditions. All appropriate public and private groups, organizations and agencies shall be consulted in preparing programs and services for these students.

C. 18A:72H-5 Documentation required.

5. In order for a learning disabled student to qualify as an eligible student, the student shall submit to the department documentation by a competent authority of the learning disability and that it results from organic dysfunction. The authority may consult with colleagues in associated disciplines in order to prepare the documentation.

C. 18A:72H-6 Duties of chancellor.

6. The department, through the Chancellor of Higher Education, shall:

a. Enter into agreements with any individual, agency or public or independent institution of higher education in this State, under which the individual, agency or institution shall undertake to provide direct support services to eligible students, provided these services do not duplicate or replace any services for which these students are currently eligible.

b. Enter into contractual agreements with any public or independent institution of higher education to establish and maintain within that institution offices to facilitate the provision and coordination of support services to eligible students.

c. Authorize the payment to those individuals, agencies and institutions as set forth in subsections a. and b. of this section of

funds appropriated or otherwise made available to the department under this act or any other law, or from any other lawful source.

d. Assess, evaluate and review the extent of the visual or auditory impairments or the learning disabilities which shall qualify students for eligibility for services pursuant to the regulations promulgated under this act.

e. Develop and coordinate a comprehensive support plan for eligible students specifying the needs of the eligible students.

f. Provide the supportive services outlined in the support plan, directly or through contractual agreements with individuals, institutions, agencies and others, as appropriate.

g. Foster awareness of, and sensitivity to, the students' handicapping conditions through seminars, presentations, bulletins and other activities for instructional, administrative and other staff of public and independent higher educational institutions.

h. Encourage and facilitate the use of a variety of instructional materials and methods by disseminating to professional staff of public and independent institutions of higher education information on techniques, materials and sources relating to curricular specialities.

i. Annually review and report to the Governor and the State Legislature on the services and activities funded by the department each year under this act.

C. 18A:72H-7 Advisory board.

7. To assist in fulfilling the duties and responsibilities relating to this act, the chancellor shall appoint an advisory board, which shall be broadly representative of those individuals and organizations having an active interest in, and academic or practical knowledge and experience in, the abilities and needs of visually impaired, auditorily impaired and learning disabled students; the methods and techniques of evaluation of handicapping conditions and curricular support development, including, without limitation, representatives from professional organizations, parent/student organizations, institutional administrations, academic personnel, student personnel services staff, and students. A representative from the Departments of Labor and Human Services shall serve on the advisory board.

C. 18A:72H-8 Rules, regulations.

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

C. 18A:72H-9 Use of funds.

9. If in any fiscal year, the funds made available under this act are not sufficient to fully fund all services and activities required pursuant to this act, the department shall utilize the available funds in such a manner and for such purposes as it determines will best meet the needs of eligible students under this act.

10. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 494

AN ACT creating the Vietnam Memorial Committee, creating the Vietnam Veteran's Memorial Fund and supplementing Title 52 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. New Jersey veterans of the Vietnam conflict have not received the recognition they deserve;

b. It is long overdue for citizens of this State to pay tribute to the sacrifices that were made and to commemorate the courage that was shown; and

c. A memorial is a fitting acknowledgment of the valor displayed by our servicemen, both living and dead.

2. There is established in the Department of State the Vietnam Veterans' Memorial Committee. The committee shall consist of 14 members as follows: the Secretary of State, the Commissioner of the Department of Community Affairs and a member of the New Jersey State Council on the Arts, or their respective designees, who shall serve ex officio; two members to be appointed from the membership of the Senate by the President thereof, neither of whom shall be from the same political party; two members to be appointed from the membership of the General Assembly by the Speaker thereof, neither of whom shall be from the same political party; four members from the membership of recognized Vietnam veterans' groups in this State, to be appointed by the Governor; and

three public members who are residents of this State, to be appointed by the Governor. Any vacancy in the membership of the committee shall be filled in the same manner as the original appointments are made.

3. The committee shall select a suitable design and location for the construction of a Vietnam Veterans' Memorial honoring New Jersey veterans of the Vietnam conflict and shall determine the appropriate methods of financing the construction and maintenance of the memorial. The committee may initiate fund-raising measures and may receive monetary donations for the memorial. Any moneys received for these purposes by the committee shall be deposited in the fund created under section 4 of this act. Not later than six months after the effective date of this act, the committee shall report its findings and recommendations to the Legislature.

C. 52:18A-208 Vietnam Veterans' Memorial Fund.

4. There is created in the Department of the Treasury a fund to be known as the Vietnam Veterans' Memorial Fund. The fund shall be credited with any moneys received by the Vietnam Veterans' Memorial Committee as donations under section 3 of this act, and any moneys as may thereafter be donated by members of the public or appropriated to the fund by law. All interest on moneys in the fund shall be credited to the fund. The moneys in the fund shall be administered by the State Treasurer, to be held thereby in the fund until appropriated by law. Not later than six months after the effective date of this act, and periodically thereafter, the State Treasurer shall certify to the Legislature the total amount of moneys in the fund.

5. This act shall take effect immediately, and shall expire six months after the effective date hereof; except for section 4 hereof, which shall remain in effect.

Approved January 21, 1986.

CHAPTER 495

AN ACT concerning the practice of veterinary medicine and revising parts of the statutory law.

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

1. R. S. 45:16-1 is amended to read as follows:

Board of Veterinary Medical Examiners.

45:16-1. The State Board of Veterinary Medical Examiners, hereinafter in this chapter designated as the "board," created and established by an act entitled "An act to regulate the practice of veterinary medicine, surgery and dentistry in the State of New Jersey, to license veterinarians and to punish persons violating the provisions thereof," approved March 17, 1902 (L. 1902, c. 18, p. 36), as amended and supplemented, is continued. The board shall consist of five members, each of whom shall be a person of recognized professional ability and honor in the veterinary profession in this State and shall have practiced veterinary medicine and surgery in the State for at least five years immediately preceding appointment to the board. Upon the expiration of the term of office or resignation of a member, a successor shall be appointed by the Governor for a term of three years from the first Monday of May of the year of appointment. The board shall additionally consist of any members who may be required by section 2 of P. L. 1971, c. 60 (C. 45:1-2.2). No member shall be appointed to more than three successive full terms. Each member shall hold office until a successor has qualified.

2. Section 6 of P. L. 1983, c. 98 (C. 45:16-7.2) is amended to read as follows:

C. 45:16-7.2 Reciprocity.

6. The board may waive all but the law portion of the examination of and issue a license to practice veterinary medicine and surgery to any person who at the time of the application: a. holds a valid, unsuspended and unrevoked license to practice veterinary medicine and surgery issued by or under the authority of any state, territory, or the District of Columbia, which has education and examination requirements which are substantially equivalent to the requirements of this act for the issuance of a license and b. insofar as the records of that authority are concerned: (1) has been engaged in the clinical practice of veterinary medicine for three consecutive years immediately prior to application and (2) is entitled to its endorsement. No person shall seek licensure under this section sooner than three years after failure to be licensed under any other section of P. L. 1952, c. 198 (C. 45:16-9.1 et al.).

3. R. S. 45:16-8.1 is amended to read as follows:

Practice defined.

45:16-8.1. Any person shall be regarded as practicing veterinary medicine within the meaning of this chapter, who, either directly or indirectly, diagnoses, prognoses, treats, administers, prescribes, operates on, manipulates, or applies any apparatus or appliance for any disease, pain, deformity, defect, injury, wound or physical condition of any animal, including poultry and fish, or who prevents or tests for the presence of any disease in animals, or who performs embryo transfers and related reproductive techniques, or holds himself out as being able or legally authorized to do so.

The term "practice of veterinary medicine, surgery, and dentistry" does not include:

(1) The calling into this State for consultation of a duly licensed veterinarian of any other state with respect to any case under treatment by a veterinarian registered under the provisions of this act;

(2) The practice of veterinary medicine by any veterinarian in the performance of his official duties in the service of the State of New Jersey or the United States Government, either civil or military;

(3) The experimentation and scientific research activities of physiologists, bacteriologists, biologists, pathologists, biological chemists, chemists, or persons under the direct supervision thereof, when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of veterinary medical practice;

(4) The administration to the ills and injuries to their own animals by persons owning such animals; provided, however, that they otherwise comply with all laws, rules and regulations relative to the use of medicines and biologics used in so doing;

(5) Persons gratuitously giving aid, assistance or relief in emergency or accident cases, if they do not represent themselves to be veterinarians or use any title or degree appertaining to the practice thereof;

(6) Any properly trained animal health technician or other properly trained assistant, who is under the responsible supervision and direction of a licensed veterinarian in his practice of veterinary medicine, if the technician or assistant does not represent himself as a veterinarian or use any title or degree pertaining to the practice thereof and does not diagnose, prescribe, or perform surgery;

(7) Emergency paramedical services rendered during the transportation of an animal to an animal or veterinary facility, when the transportation is provided by any person providing the service for hire as a business;

(8) The care, repair and rehabilitation of wildlife species by wildlife rehabilitators under the responsible supervision of a licensed veterinarian; and

(9) Artificial insemination.

4. Section 6 of P. L. 1952, c. 198 (C. 45:16-9.6) is amended to read as follows:

C. 45:16-9.6 Partners, shareholders restricted.

6. Wherever the profession of veterinary medicine, surgery and dentistry is carried on by a partnership, corporation incorporated under Title 14A of the New Jersey Statutes or professional association, all partners or shareholders must be licensed veterinarians.

5. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 496

AN ACT to amend the "Local Tax Authorization Act," approved December 23, 1970 (P. L. 1970, c. 326), as said short title was amended by P. L. 1981, c. 507.

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

1. Section 19 of P. L. 1970, c. 326 (C. 40:48C-19) is amended to read as follows:

C. 40:48C-19 Payroll tax extended.

19. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to services performed prior to January 1, 1971, in a calendar quarter prior to that in which the ordinance is adopted on or after January 1, 1988, but any such ordinance shall remain in effect with respect to the right of the municipality to receive reports and enforce and collect taxes due thereunder for any period prior to January 1, 1988.

2. Section 5 of P. L. 1970, c. 326 (C. 40:48C-5) is amended to read as follows:

C. 40:48C-5 Alcoholic beverage tax.

5. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to alcoholic beverages delivered to a taxpayer on or after January 1, 1988.

3. Section 8 of P. L. 1970, c. 326 (C. 40:48C-8) is amended to read as follows:

C. 40:48C-8 Parking service tax.

8. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to parking services provided on or after January 1, 1988.

4. This act shall take effect immediately and shall be retroactive to December 31, 1985.

Approved January 21, 1986.

CHAPTER 497

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, 1986 and regulating the disbursement thereof," approved June 28, 1985 (P. L. 1985, c. 209).

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

1. In addition to the sums appropriated under P. L. 1985, c. 209, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

44 Hazardous and Toxic Pollution Control — State Aid

19-4815 Spill Prevention, Response and Site Cleanup \$15,000

State Aid:

Reimbursement to Borough of
Maywood (\$15,000)

2. Moneys made available by this appropriation shall be used by the Borough of Maywood for the unanticipated expense of employing an environmental health physicist to assist the borough with its thorium contamination problems.

3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 498

AN ACT to create a law revision commission and to define its powers and duties, and amending section 8 of P. L. 1979, c. 8.

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

C. 1:12A-1 Law Revision Commission.

1. (New section) There is created in the Legislative Branch of State Government a commission to be known as the New Jersey Law Revision Commission.

C. 1:12A-2 Membership.

2. (New section) The commission shall consist of:

a. The chairman of the Senate Judiciary Committee, or its successor, who shall serve while chairman of that committee;

b. The chairman of the Assembly Judiciary, Law, Public Safety and Defense Committee, or its successor, who shall serve while chairman of that committee;

c. The Deans, or their designees, of Rutgers Law School, Newark; Rutgers Law School, Camden; and Seton Hall Law School; and

d. Four attorneys admitted to the practice of law in this State, two to be appointed by the President of the Senate, no more than one of whom shall be of the same political party, and two to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party.

C. 1:12A-3 Terms.

3. (New section) Of the members of the commission first appointed, two shall be appointed for terms of four years and two for terms of five years. Thereafter, members shall be appointed for terms of five years. Members shall serve until the appointment and qualification of their successors.

C. 1:12A-4 Vacancies.

4. (New section) Vacancies shall be filled for the unexpired terms in the same manner as the original appointments were made.

C. 1:12A-5 No compensation.

5. (New section) Members of the commission shall not receive any compensation, but they shall be reimbursed for expenses incurred in the performance of their duties.

C. 1:12A-6 Chairman.

6. (New section) The commission shall elect one member thereof as chairman, who shall serve for a term of two years.

C. 1:12A-7 Employees.

7. (New section) The commission may appoint employees and consultants as may, in its judgment, be necessary, prescribe their qualifications and duties, and fix their compensation within the availability of amounts appropriated for that purpose.

C. 1:12A-8 Functions; duties.

8. (New section) The commission shall promote and encourage the clarification and simplification of the law of New Jersey and its better adaption to present social needs, secure the better administration of justice and carry on scholarly legal research and work. It shall further be the duty of the commission to:

a. Conduct a continuous examination of the general and permanent statutory law of this State and the judicial decisions construing it, for the purpose of discovering defects and anachronisms therein, and to prepare and submit to the Legislature, from time to time, legislative bills designed to

(1) Remedy the defects,

(2) Reconcile conflicting provisions found in the law, and

(3) Clarify confusing and excise redundant provisions found in the law;

b. Carry on a continuous revision of the general and permanent statute law of the State, in a manner so as to maintain the general and permanent statute law in revised, consolidated and simplified form under the general plan and classification of the Revised Statutes and the New Jersey Statutes;

c. Receive and consider suggestions and recommendations from the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and other learned bodies and from judges, public officials, bar associations, members of the bar and from the public generally, for the improvement and modification of the general and permanent statutory law of the State, and to bring the law of this State, civil and criminal, and the administration thereof, into harmony with modern conceptions and conditions; and

d. Act in cooperation with the Legislative Counsel in the Office of Legislative Services, to effect improvements and modifications in the general and permanent statutory law pursuant to its duties set forth in this section, and submit to the Legislative Counsel and the Division for their examination such drafts of legislative bills as the commission shall deem necessary to effectuate the purposes of this section.

C. 1:12A-9 Annual report.

9. (New section) The commission shall report annually to the Legislature on or before February first in each year.

10. (New section) The first members to be appointed to the commission shall be appointed within 60 days after the enactment of this act.

11. Section 8 of P. L. 1979, c. 8 (C. 52:11-61) is amended to read as follows:

C. 52:11-61 Duties of Legislative Counsel.

8. It shall be the duty of the Legislative Counsel:

a. To provide general standards for the office to draft, aid in drafting and redrafting bills, resolutions and amendments thereof, and reviewing the same when drafted elsewhere, proposed for introduction in the Legislature and other legislative documents for and upon the request of any legislative commission or of any member, committee or joint committee of the Legislature;

b. To provide general standards for the office to examine and edit legislative bills, proposed for introduction or introduced from time to time in the Senate and General Assembly so as to assure, whenever possible, their compliance with the form and general classification of the Revised Statutes, when so requested or directed by the Legislature or any committee thereof;

c. To furnish assistance and information to the Legislature or any member or committee thereof or to the departments, officers,

institutions and agencies of the State and to the public in legal matters concerning the statutes, when so requested;

d. To receive drafts of legislative bills with suggestions and recommendations from the New Jersey Law Revision Commission for the improvement and modification of the general and permanent statute law of the State, and to examine and edit those bills in the same manner as it would other bills under this section;

e. To furnish to the presiding officer of each House of the Legislature or to the committees, joint committees and members of the Legislature, legal assistance, information and advice when and in relation to such matters as the commission shall from time to time determine, relating to

(1) The subject matter and legal effect of the statutes and of proposals made for statutory enactment, and

(2) Questions of parliamentary law and legislative procedure;

f. Upon the written request of either or both Houses of the Legislature, the presiding officer of either House, the majority or minority leader of either House, a legislative committee or commission, to furnish formal written opinions on legal matters;

g. On behalf of the commission to assign appropriate compilation numbers to newly-enacted laws, edit an annual cumulative table of contents to the laws, and initiate administrative corrections in the text of the laws as authorized and directed by R. S. 1:3-1 and R. S. 1:3-2;

h. To perform such other duties and responsibilities as shall be directed by the commission or provided by law or House rule.

12. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 499

AN ACT to amend the title of "An Act concerning the authorization, acquisition, financing and operation of a food distribution center in the Hackensack Meadowlands District, providing for creation and establishment of the Hackensack Meadowlands Food Distribution Center Commission as a public body corporate and

politic to undertake the same, for the issuance of bonds and other obligations therefor, and for the charges and other means to meet the expense thereof and repealing P. L. 1960, c. 18," approved July 18, 1983 (P. L. 1983, c. 272), so the same shall read "An Act concerning the authorization, acquisition, financing and operation of a food distribution center in the region of the Hackensack Meadowlands District, providing for the creation and establishment of the Hackensack Meadowlands Food Distribution Center Commission as a public body corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for the charges and other means to meet the expense thereof and repealing P. L. 1960, c. 18" and to amend and supplement the body of said act.

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

1. The title of P. L. 1983, c. 272 is amended to read as follows:

Title amended.

An Act concerning the authorization, acquisition, financing and operation of a food distribution center in the region of the Hackensack Meadowlands District, providing for the creation and establishment of the Hackensack Meadowlands Food Distribution Center Commission as a public body corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for the charges and other means to meet the expense thereof and repealing P. L. 1960, c. 18.

2. Section 2 of P. L. 1983, c. 272 (C. 13:17A-2) is amended to read as follows:

C. 13:17A-2 Food distribution center commission.

2. It is declared to be in the public interest and to be the policy of the State and municipalities to foster and promote by all reasonable means the provision of a food distribution center within the region of the Hackensack Meadowlands District for use by the public in the expeditious handling, storage and marketing of agricultural and horticultural products, meat, fish, foods, and other products and commodities and reduce and eliminate the shortage of facilities which has resulted in undue losses, spoilage and waste of agricultural and horticultural products, meat, fish, foods and

other products and commodities and increased costs to public consumers, and to promote the public health, welfare, betterment and convenience and reduce the impairment of any of the aforesaid resulting from lack of proper public marketing facilities which cannot be adequately obtained except by exercise of the powers of government. The Hackensack Meadowlands Development Commission is currently undertaking a study to determine the feasibility of a food distribution center in the vicinity of the Hackensack Meadowlands District. In the event that study determines that such a facility is feasible, it is the purpose and object of this act to further and implement this policy by:

a. Empowering a food distribution center commission to acquire, construct, maintain, operate and improve a market facility at a site selected as hereinafter provided;

b. Authorizing the making of charges for the use or the services of the facility, and providing for the establishment, collection and enforcement of the charges;

c. Establishing a food distribution center commission as a body corporate and politic to have full responsibility and powers with respect to the facility and the establishment, collection, enforcement, use and disposition of the charges for the use or services of the facility;

d. Authorizing the food distribution center commission to provide for the financing of the facility, for the issuance of bonds of the commission therefor, and for the payment and security of the bonds; and

e. Granting to the commission discretionary powers to provide for the food distribution center and to obtain funds to defray the cost thereof from the users of the facility or from the federal government, or states, counties or municipalities or from other persons contracting for or with respect to the same.

3. Section 11 of P. L. 1983, c. 272 (C. 13:17A-11) is amended to read as follows:

C. 13:17A-11 Purposes of commission.

11. a. The purposes of the commission shall be: (1) providing a food distribution center for the use of the public at the site selected, after a finding that the market facility is feasible; and (2) making the facility available to the public for the handling, storage and marketing of agricultural and horticultural products, meat, fish, foods and other products and commodities.

b. The commission is authorized, subject to the limitations of this act, to acquire in its own name, by purchase, gift, condemnation or otherwise, and notwithstanding the provisions of any charter, ordinance or resolution of any political subdivision of this State to the contrary, except as provided in section 25, to construct, maintain, operate and use the market facility, and any plants, storage and processing facilities, buildings, sheds, accommodations, access areas and roadways, port facilities, equipment, devices, appurtenances and other facilities and structures, within and without the State, as in the judgment of the commission will provide an effective and satisfactory method for promoting the purpose of the facility.

c. If the market facility is sited in the district, the plans and specifications for the market facility shall be approved by the Hackensack Meadowlands Development Commission in accordance with the standards and criteria contained in the district's master plan and zoning regulations. If the market facility is sited outside the district, the market facility shall meet the zoning regulations of the local unit.

4. Section 24 of P. L. 1983, c. 272 (C. 13:17A-24) is amended to read as follows:

C. 13:17A-24 Site of market facility.

24. The market facility shall be located at a site within the area selected by the Governor, pursuant to the provisions of this act or any supplement thereto.

5. Section 25 of P. L. 1983, c. 272 (C. 13:17A-25) is amended to read as follows:

C. 13:17A-25 Power of eminent domain.

25. The commission is empowered, in its own name, to acquire by purchase, gift, grant or devise and to take for public use real property within the market facility which may be deemed by the commission to be necessary for its purposes, including public lands and property, hereinafter in this section called "public lands," in which any county, municipality or political subdivision in which a market facility is sited has any right, title or interest and to the acquisition of which it shall have consented. Whenever the commission has determined that it is necessary to take any real property for facility purposes by the exercise of the power of condemnation, as hereinafter provided, it shall prepare two copies of diagrams, maps or plans designating the general area in which

real property is to be acquired, and file one copy thereof in its office and the other copy thereof in the office of the clerk of the local unit. The commission is empowered to acquire and take real property by condemnation, in the manner provided by the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.), and to that end, may invoke and exercise in the manner or mode of procedure prescribed in said act; provided, however, that, notwithstanding the foregoing or any other provision of this act, the commission shall not institute any proceeding to acquire or take by condemnation any real property within the designated area in the local unit referred to above in this section until after the date of filing in the office of the clerk of the local unit of a certified copy of: a. a resolution of the commission, stating the finding of the commission that it is necessary or convenient to acquire real property in said designated area for facility purposes, and b. a resolution of the governing body of the local unit, expressing its consent to the acquisition of real property in said designated area.

C. 13:17A-4.1 Siting restriction.

6. (New section) The Governor may designate or redesignate the site for a food distribution center in a municipality or municipalities located in any county with land located in, or bordering on, the district.

7. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 500

AN ACT to amend and supplement the "New Jersey Sports and Exposition Authority Law," approved May 10, 1971 (P. L. 1971, c. 137).

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

1. Section 4 of P. L. 1971, c. 137 (C. 5:10-4) is amended to read as follows:

C. 5:10-4 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 seven 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 six 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 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 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 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.

2. Section 5 of P. L. 1971, c. 137 (C. 5:10-5) is amended to read as follows:

C. 5:10-5 Powers.

5. Except as otherwise limited by the act, the authority shall have power:

- a. To sue and be sued;
- b. To have an official seal and alter the same at pleasure;
- c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;
- d. To maintain an office at such place or places within the State as it may determine;
- e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- f. To acquire, lease as lessee or lessor, rent, lease, hold, use and dispose of real or personal property for its purposes;
- g. To borrow money and to issue its negotiable bonds or notes and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement, and otherwise to provide for and secure the payment of its bonds and notes and to provide for the rights of the holders thereof;
- h. To make and enter into all contracts, leases, and agreements for the use or occupancy of its projects or any part thereof or which are necessary or incidental to the performance of its duties and the exercise of its powers under the act;
- i. To make surveys, maps, plans for, and estimates of the cost of its projects;

j. To establish, acquire, construct, lease the right to construct, rehabilitate, repair, improve, own, operate, and maintain its projects, and let, award and enter into construction contracts, purchase orders and other contracts with respect thereto in such manner as the authority shall determine, subject only to the provisions of sections 1 through 3 of P. L. 1981, c. 447 (C. 5:10-21.1 through 5:10-21.3);

k. To fix and revise from time to time and charge and collect rents, tolls, fees and charges for the use, occupancy or services of its projects or any part thereof or for admission thereto, and for the grant of concessions therein and for things furnished or services rendered by the authority;

l. To establish and enforce rules and regulations for the use or operation of its projects or the conduct of its activities, and provide for the policing and the security of its projects;

m. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or, except with respect to the State, by the exercise of the power of eminent domain, any land and other property, including land under water, meadowlands, and riparian rights, which it may determine is reasonably necessary for any of its projects or for the relocation or reconstruction of any highway by the authority and any and all rights, title and interest in such land and other property, including public lands, reservations, highways or parkways, owned by or in which the State or any county, city, borough, town, township, village, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon abutting property, to preserve and protect any project, except that the authority shall not have the right to exercise the power of eminent domain in connection with projects authorized under paragraphs (5), (6), and (7) of subsection a. of section 6 of P. L. 1971, c. 137 (C. 5:10-6);

n. To provide through its employees, or by the grant of one or more concessions, or in part through its employees and in part by grant of one or more concessions, for the furnishing of services and things for the accommodation of persons admitted to or using its projects or any part thereof;

o. To hold and conduct horse race meetings for stake, purse or reward and to provide and operate a parimutuel system of wagering at such meetings, but subject only to the provisions of section 7 of the act;

p. To acquire, construct, operate, maintain, improve, and make capital contributions to others for transportation and other facilities, services and accommodations for the public's use of its projects and to lease or otherwise contract for the operation thereof;

q. Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities and other investments as the authority shall deem prudent;

r. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of the act, with the terms and conditions thereof;

s. Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available therefor, and to hold, cancel or resell such bonds or notes;

t. To appoint and employ a president, who shall be the chief executive officer, and such additional officers, who need not be members of the authority, and accountants, attorneys, financial advisors or experts and all such other or different officers, agents and employees as it may require and to determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes, provided that it is the express intent of the Legislature that the authority within its sole discretion shall utilize, to the fullest extent feasible, the services of the officers, personnel and consultants of the Meadowlands Commission, in connection with its project in the Meadowlands Complex;

u. To do and perform any acts and things authorized by the act, under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;

v. To procure insurance against any losses in connection with its property, operations or assets, in such amounts and from such insurers as it deems desirable;

w. To do any and all things, including, but not limited to, the creation or formation of profit or not-for-profit corporations, necessary or convenient to carry out its purposes and exercise the powers given and granted in the act; and

x. To determine the location, type and character of a project or any part thereof and all other matters in connection with all or any part of a project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate, including but not limited to the Meadowlands Commission, or any other political subdivision of the State, provided that the authority shall consult with the Meadowlands Commission before making any determination as to the location, type and character of any project under the jurisdiction of the Meadowlands Commission.

3. (New section) The additional member first appointed pursuant to this 1985 amendatory and supplementary act shall serve for a term of two years.

4. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 501

A SUPPLEMENT to "An act concerning assistance for dependent children, supplementing Title 44 of the Revised Statutes and repealing certain statutes relating thereto," approved June 11, 1959 (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. 44:10-5.1 Short title.

1. This act shall be known and may be cited as the "Public Assistance Payments Cycling Act."

C. 44:10-5.2 4 payment dates.

2. For the purpose of distributing public assistance payments, the Department of Human Services shall divide eligible recipients for each county into four population groups of equal size. The

department shall issue to each group its public assistance payment once per month. The payment schedules for the groups shall be staggered, with no less than five working days between payment dates. The department shall implement the revised payment schedule no later than April 1, 1987.

C. 44:10-5.3 Avoidance of hardship.

3. The department shall provide that no public assistance recipient experiences hardship due to the revised payment schedule either during transition to the new schedule or upon making an initial application for benefits.

C. 44:10-5.4 Exempt counties.

4. The Commissioner of the Department of Human Services may exempt a county from the provisions of this act if the commissioner determines that the revised payment schedule is not needed in a particular county.

C. 44:10-5.5 Rules, regulations.

5. The Department of Human Services shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 502

AN ACT authorizing the Department of Transportation to extend the Route 15 Freeway from its intersection with Route 181 in Sparta, Sussex county to a point in the borough of Branchville, Sussex county.

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

1. The Commissioner of Transportation is authorized to extend the existing Route 15 Freeway beginning from its intersection with Route 181 in the township of Sparta, Sussex county, then continuing in a general northwesterly direction and terminating at a point in the borough of Branchville.

2. If approved by the commissioner, the extension to the Route 15 Freeway shall be part of the State highway system.

3. The Commissioner of Transportation is authorized to lay out the route for the extension, complete the design for construction of the extension and begin acquisition of any right-of-way necessary for construction of the extension on or before January 1, 1993.

4. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 503

AN ACT concerning the sale of alcoholic beverages, amending R. S. 33:1-77 and repealing section 8 of P. L. 1968, c. 313.

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

1. R. S. 33:1-77 is amended to read as follows:

Defenses of sellers.

33:1-77. Anyone who sells any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages is a disorderly person; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the purchaser falsely represented in writing, or by producing a driver's license bearing a photograph of the licensee, or by producing a photographic identification card issued pursuant to section 1 of P. L. 1968, c. 313 (C. 33:1-81.2) or a similar card issued pursuant to the laws of another state or the federal government that he or she was of legal age to make the purchase, (b) that the appearance of the purchaser was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase, and (c) that the sale was made in good faith relying upon such written representation, or production of a driver's license bearing a photograph of the licensee, or production of a photographic identification card issued pursuant to section 1 of P. L. 1968, c. 313 (C. 33:1-81.2) or a similar card issued pursuant to the laws of another state or the federal government and appearance and in the reasonable be-

lief that the purchaser was actually of legal age to make the purchase

Repealer.

2. Section 8 of P. L. 1968, c. 313 (C. 33:1-81.9) is repealed.
3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 504

AN ACT concerning county disaster coordinators, amending and supplementing P. L. 1953, c. 438.

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

1. Section 12 of P. L. 1953, c. 438 (C. App. A:9-42.1) is amended to read as follows:

C. App. A:9-42.1 County disaster control coordinator, deputy.

12. In every county of this State the governing body shall appoint a county disaster control coordinator and a deputy county disaster control coordinator, which appointments shall be for terms of three years. The appointments shall be subject to the approval of the State Civilian Defense Director and thereafter shall be subject to his orders. The State Civilian Defense Director shall exercise supervision and control of all such appointees, who may be removed by said State Civilian Defense Director for cause.

C. App. A:9-42.1a Term.

2. (New section) Any county disaster control coordinator or deputy county disaster control coordinator appointed prior to the effective date of this amendatory and supplementary act shall serve for the length of the term to which the coordinator was appointed unless removed for just cause. Thereafter, the provision of section 12 of P. L. 1953, c. 438 (C. App. A:9-42.1) relating to the length of a term shall take effect.

3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 505

AN ACT concerning property tax deductions and amending P. L. 1964, c. 255.

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

1. Section 5 of P. L. 1964, c. 255 (C. 54:4-8.44a) is amended to read as follows:

C. 54:4-8.44a Filing for tax deduction.

5. Every person who is allowed a deduction shall, except as hereinafter provided, be required to file with the collector of the taxing district on or before March 1 of the post-tax year a statement under oath of his income for the tax year and his anticipated income for the ensuing tax year as well as any other information deemed necessary to establish his right to a tax deduction for such ensuing tax year. The collector may grant a reasonable extension of time for filing the statement required by this section, which extension shall terminate no later than May 1 of the post-tax year, in any event where it shall appear to the satisfaction of the collector, verified by a physician's certificate, that the failure to file by March 1 was due to illness or a medical problem which prevented timely filing of the statement. In any case where such an extension is granted by the collector, the required statement shall be filed on or before May 1 of the post-tax year.

Such statement 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 persons required to make such statement by the governing body of the municipality constituting the taxing district in which such statement is required to be filed and shall be mailed by the collector on or before February 1 of the post-tax year to each person within the taxing district who was allowed a deduction in the preceding year. Each collector may require the submission of such proof as he shall deem necessary to verify any such statement. Upon the failure of any such person to file the statement within time herein provided or to submit such proof as the collector deems necessary to verify a statement that has been filed, or if it is determined that the income of any such person exceeded the applicable income limitation for said tax year, his tax

deduction for said tax year shall be disallowed. A notice of disallowance, on a form prescribed by the director, shall be mailed to that person by the collector on or before April 1 of the post-tax year or, where an extension of time for filing has been granted, no later than June 1, and his taxes to the extent represented by the amount of said deduction shall be payable on or before June 1 of the post-tax year or, where an extension of time for filing has been granted no later than 30 calendar days after the notice of disallowance was mailed, after which date if unpaid, said taxes shall be delinquent, constitute a lien on the property, and, in addition, the amount of said taxes shall be a personal debt of said person.

The amount of any lien and tax liability shall be prorated by the tax collector upon the transfer of title based on the number of days during the tax year that entitlement to the tax deduction is established. The lien shall be considered satisfied by the tax collector upon payment of the prorated amount for that portion of the tax year for which entitlement to the tax deduction is not established.

2. This act shall take effect on January 1 next following enactment and shall apply to post-tax year statements filed after that date.

Approved January 21, 1986.

CHAPTER 506

AN ACT concerning professional review committees and amending
P. L. 1979, c. 128.

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

1. Section 1 of P. L. 1979, c. 128 (C. 2A:84A-22.10) is amended to read as follows:

C. 2A:84A-22.10 Professional review immunity.

1. Any person who serves as a member of
 - a. A hospital or long-term health care facility committee established to administer a utilization review plan for such hospital or long-term health care facility; or

b. A hospital medical staff committee having the responsibility of evaluation and improvement of the quality of care rendered in such hospital; or

c. (Deleted by amendment, P. L. 1985, c. 506.)

d. A hospital peer-review committee having the responsibility for the review of the qualifications and credentials of physicians or dentists seeking appointment or reappointment to the medical or dental staff of a hospital, or of questions of the clinical or administrative competence of physicians or dentists so appointed, or of matters concerning limiting the scope of hospital privileges of physicians or dentists on the staff, or of matters concerning the dismissal or discharge of same; or

e. A peer-review, ethics, grievance, judicial, quality assurance or professional relations committee or subcommittee thereof of a local, county or State medical, dental, podiatric, optometric, psychological, chiropractic or pharmaceutical society or long-term health care facility association, or of any such society or association itself, when such society or association or committee or subcommittee thereof is performing any peer-review, ethics, grievance, judicial, quality assurance or professional relations review function that is

(1) Described in subsections a., b. and d. above of this section; or

(2) Involves any controversy or dispute between (a) a physician, dentist, podiatrist, optometrist, psychologist, chiropractor, pharmacist, nurse, dietitian or licensed administrator and a patient concerning the diagnosis, treatment or care of such patient or the fees or charges therefor, (b) a physician, dentist, podiatrist, optometrist, psychologist, chiropractor, pharmacist, nurse, dietitian or licensed administrator and a provider of medical, dental, podiatric, optometric, psychological or pharmaceutical benefits, concerning any medical or health charges or fees of such physician, dentist, podiatrist, optometrist, psychologist, chiropractor, pharmacist, nurse, dietitian or licensed administrator, or (c) physicians, dentists, podiatrists, optometrists, psychologists, chiropractors, pharmacists, nurses, dietitians or licensed administrators: shall not be liable in damages to any person for any action taken or recommendation made by him within the scope of his function as a member of such committee, subcommittee or society in the performance of said peer-review, ethics, grievance, judicial, quality assurance or professional relations review functions, if such action or recommendation was taken or made without malice and in the

reasonable belief after reasonable investigation that such action or recommendation was warranted upon the basis of facts disclosed.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 507

AN ACT concerning judges of the Superior Court in certain counties, amending N. J. S. 2A:2-1 and P. L. 1983, c. 405.

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

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

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 339 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	8
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	28
Gloucester	8
Hudson	18
Hunterdon	2
Mercer	8
Middlesex	18
Monmouth	12
Morris	11
Ocean	12
Passaic	14
Salem	2
Somerset	6

Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. Section 11 of P. L. 1983, c. 405 (C. 2A:2-1.3) is amended to read as follows:

C. 2A:2-1.3 County responsibility for salary.

11. a. Each county shall be responsible for 50% of the cost of the salary of the judges of the juvenile and domestic relations courts or family court and county district courts transferred pursuant to this act until December 31, 1984.

b. Except as provided in subsection d. of this section, in any county where the required number of judges set forth in N. J. S. 2A:2-1b. is increased after December 28, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 100% of the cost of the salary of any judge who has been assigned in the first year following the date of increase; 75% in the second year; 50% in the third year; 25% in the fourth year; and in the fifth year, the State shall be responsible for the entire cost of the salary of any judge so assigned.

c. In any county where the required number of judges set forth in N. J. S. 2A:2-1b. is increased after December 31, 1983 but before December 29, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 50% of the cost of the salary of any judge so assigned until December 31, 1984.

d. In any county where the required number of judges set forth in N. J. S. 2A:2-1b. is increased pursuant to P. L. 1985, c. 507, and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 50% of the cost of the salary of any judge so assigned until December 31, 1985.

3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 508

AN ACT concerning agricultural labor, amending R. S. 43:21-4 and R. S. 43:21-5, supplementing P. L. 1948, c. 446 (C. 34:1A-1 et seq.) and making an appropriation.

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

1. (New section) The Legislature finds and determines that:

a. Agriculture is now and has traditionally been an essential part of the State's economic base, and it is the public policy of this State to ensure the survival of this sector of the economy, particularly in the face of encroaching industrial and commercial development and increasing urbanization; and

b. The continuing survival of New Jersey agriculture is dependent upon a steady and reliable supply of labor; and

c. The complexity of the problem of the compensation of agricultural laborers, which has been heightened by the increasing urbanization and industrial development in this State, needs to be studied by the Legislature in order to determine what remedial actions it may be necessary to take; and

d. It is the intention of the Legislature that the problems of the New Jersey agricultural workers be addressed without sacrificing the basic principles of the recently enacted unemployment compensation reform law (P. L. 1984, c. 24), which was a product of cooperation between business and labor; and

e. The following are valid public purposes and are not regarded by the Legislature as sacrificing the basic principles of the unemployment compensation reform law:

(1) Creating a commission to study the hiring, employment and compensation of agricultural labor in this State, to report its findings thereon, and to propose solutions to the Legislature; and

(2) Enacting temporary measures to assist certain agricultural workers to maintain eligibility for unemployment compensation benefits during the time that the commission conducts its study.

2. R. S. 43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if it appears that:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R. S. 43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R. S. 43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason

of the individual's attendance before a court in response to a summons for service on a jury.

(d) The individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the temporary disability benefits law;

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R. S. 43:21-5.

(e) (1) With respect to a base year as defined in subsection (c) of R. S. 43:21-19, the individual has established at least 20 base weeks as defined in paragraph (1) of subsection (t) of R. S. 43:21-19, or, in those instances in which the individual has not established 20 base weeks, the individual has earned \$2,200.00 for benefit years commencing prior to October 1, 1984; and, except as otherwise provided in paragraph (2) or paragraph (3) of this subsection, for benefit years commencing on or after October 1, 1984, the individual has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R. S. 43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof or more in the individual's base year.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, for benefit years commencing on or after October 1, 1984 and before January 1, 1985, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R. S. 43:21-19, be eligible to receive benefits if it appears that the individual has established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R. S. 43:21-19, or, in those instances in which the individual has not established 20 base weeks, the individual has earned \$2,200.00.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, for benefit years commencing on or after October 1, 1985 and before October 1, 1987, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R. S. 43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R. S. 43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (1) of subsection (t) of R. S. 43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R. S. 43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(f) (1) The individual has suffered any accident or sickness not compensable under the Workers' Compensation Law (Title 34 of the Revised Statutes) and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R. S. 43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R. S. 43:21-3 (d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R. S. 43:21-27 (b); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist or chiropractor;

(B) (Deleted by amendment, P. L. 1980, c. 90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any

other state or of the United States; provided that if the appropriate agency of such other state or of the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the temporary disability benefits law;

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection 3 (b) of the temporary disability benefits law (P. L. 1948, c. 110).

(2) Benefit payments under this subsection shall be charged to and paid from the State disability benefits fund established by the temporary disability benefits law, and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the Unemployment Compensation Law; except that, notwithstanding any other provisions of the Unemployment Compensation Law:

(1) With respect to service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms:

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of

such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently resid-

ing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203 (a) (7) or section 212 (d) (5) of the Immigration and Nationality Act); provided that any modifications of the provisions of section 3304 (a) (14) of the federal Unemployment Tax Act, as provided by Public Law 94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the Temporary Disability Benefits Law.

3. R. S. 43:21-5 is amended to read as follows:

Disqualification for benefits.

43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works four weeks in employment, which may include employment for the federal government, and has earned in employment at least six times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continu-

ing work with that employer following the completion of the minimum period of work required to fulfill the contract.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks which immediately follow that week (in addition to the waiting period), as determined in each case. In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice," N. J. S. 2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from that employer for services rendered prior to the day upon which the individual was discharged.

The director shall insure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal.

(c) If it is found that the individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work when it is offered, or to return to the individual's customary self-employment (if any) when so directed by the director. The disqualification shall continue for the week in which the failure occurred and for the three weeks which immediately follow that week (in addition to the waiting period), as determined:

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in the production and harvesting of

agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.

(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed. No disqualification under this subsection shall apply if it is shown that:

(1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case in which (1) or (2) above applies, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any week with respect to which the individual is receiving or has received remuneration in lieu of notice.

(f) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under

an unemployment compensation law of any other state or of the United States; provided that if the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, this disqualification shall not apply.

(g) (1) For a period of one year from the date of the discovery by the division of the illegal receipt or attempted receipt of benefits contrary to the provisions of this chapter, as the result of any false or fraudulent representation; provided that any disqualification may be appealed in the same manner as any other disqualification imposed hereunder; and provided further that a conviction in the courts of this State arising out of the illegal receipt or attempted receipt of these benefits in any proceeding instituted against the individual under the provisions of this chapter or any other law of this State shall be conclusive upon the appeals tribunal and the board of review.

(2) A disqualification under this subsection shall not preclude the prosecution of any civil, criminal or administrative action or proceeding to enforce other provisions of this chapter for the assessment and collection of penalties or the refund of any amounts collected as benefits under the provisions of R. S. 43:21-16, or to enforce any other law, where an individual obtains or attempts to obtain by theft or robbery or false statements or representations any money from any fund created or established under this chapter or any negotiable or nonnegotiable instrument for the payment of money from these funds, or to recover money erroneously or illegally obtained by an individual from any fund created or established under this chapter.

(h) (1) Notwithstanding any other provisions of this chapter (R. S. 43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236 (a) (1) of the Trade Act of 1974, P. L. 93-618, 19 U. S. C. § 2296, nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R. S. 43:21-1 et seq.) or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this subsection (h), the term "suitable" employment means, with respect to an individual, work of a sub-

stantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974, P. L. 93-618, 19 U. S. C. § 2102 et seq.), and wages for this work at not less than 80% of the individual's average weekly wage, as determined for the purposes of the Trade Act of 1974.

(i) For benefit years commencing after June 30, 1984, for any week in which the individual is a student in full attendance at, or on vacation from, an educational institution, as defined in subsection (y) of R. S. 43:21-19; except that this subsection shall not apply to any individual attending a training program approved by the division to enhance the individual's employment opportunities, as defined under subsection (c) of R. S. 43:21-4; nor shall this subsection apply to any individual who, during the individual's base year, earned sufficient wages, as defined under subsection (e) of R. S. 43:21-4, while attending an educational institution during periods other than established and customary vacation periods or holiday recesses at the educational institution, to establish a claim for benefits. For purposes of this subsection, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution, or

(2) Which is between academic years or terms, if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term.

4. (New section) There is created a commission to be known as the "Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey," which shall consist of 13 members. Two members of the commission shall be members of the Senate, to be appointed by the President thereof, not more than one of whom shall be of the same political party, and two members shall be members of the General Assembly, to be appointed by the Speaker thereof, not more than one of whom shall be of the same political party. In addition, the Governor shall appoint six public members, three of whom shall represent business, including one representative of agricultural business; and three of whom shall represent labor, including one representative of agricultural labor. The Commissioner of Labor, the Commissioner of Commerce and Economic Development, and the State Secretary of Agriculture shall be members of the commission ex officio. All members of the commission shall serve without compensation.

Members who are legislators shall serve only as long as they hold the legislative seats they held at the time of the appointments. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

5. (New section) It shall be the duty of the commission to inquire into the hiring, employment and compensation of agricultural labor in this State and make such legislative proposals to the Legislature as it may deem necessary. In making its inquiries and formulating its proposals, the commission shall take into consideration, as it deems appropriate, recommendations of the "Commission to Study the Employment and Compensation of Agricultural Labor in New Jersey" submitted to the President of the Senate and the Speaker of the General Assembly pursuant to Assembly Concurrent Resolution No. 151 of 1984. In addition to its other duties, the commission shall specifically address the following issues: a range of possible changes in unemployment compensation eligibility standards; an extension of unemployment compensation coverage standards to make them the same for farmers as for other employers; a range of possible changes in the minimum wage level; extension of the time and a half overtime pay requirement to agriculture; enforcement of the requirement that payments-in-kind be reported as taxable wages; the establishment of an eligibility threshold for farm workers at a fixed percentage of the threshold for other employees; and the establishment of a separate unemployment insurance fund for farm workers or for other seasonal employees.

6. (New section) The commission shall organize within 15 days after the appointment of its members. The commission shall elect a chairman from among its members and the chairman shall appoint a secretary, who need not be a member of the commission.

7. (New section) The commission may hold public hearings and shall be entitled to call to its assistance and avail itself of the services of such 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 this purpose, and to employ counsel and such stenographic and clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, and as may be within the limits of funds appropriated or otherwise available to it for that purpose.

8. (New section) The commission shall report its findings and recommendations, which shall include draft legislation if the com-

mission recommends that legislation is necessary, to the Governor, the President of the Senate and the Speaker of the General Assembly not later than January 31, 1987.

C. 43:21-11.1 Actions to improve administration.

9. (New section) The Department of Labor shall take any actions as the commissioner deems necessary to improve the administration of the unemployment compensation program as it concerns agricultural workers. The actions shall include, but not be limited to, the following:

a. Strengthening the enforcement of the provisions of subsections (a) and (c) of R. S. 43:21-5 concerning the disqualification of applicants for benefits as the provisions apply to agricultural workers;

b. Making bilingual forms available for all Spanish speaking agricultural workers applying for or receiving benefits; and

c. Implementing procedures to accelerate the processing of the unemployment compensation claims of agricultural workers, including workers who live outside of the State.

10. (New section) The Department of Labor is directed to gather information needed by the "Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey," created pursuant to section 4 of this act, for the conduct of its inquiry and the formulation of its proposals, and to provide the information to the commission not later than July 31, 1986. Information requirements shall be delineated by the commission, taking into consideration, as it deems appropriate, the research recommendations of the "Commission to Study the Employment and Compensation of Agricultural Labor in New Jersey" submitted to the President of the Senate and the Speaker of the General Assembly pursuant to Assembly Concurrent Resolution No. 151 of 1984. This information shall be sufficient to make reasonable estimates of:

a. The total number of agricultural workers in the State; and

b. The number of agricultural workers participating in the unemployment compensation program.

11. This act shall take effect immediately, except for sections 4, 5, 6, 7, 8 and 10 of this act which shall take effect on January 31, 1986. Sections 4, 5, 6, 7, 8 and 10 of this act shall expire on January 31, 1987.

Approved January 21, 1986.

CHAPTER 509

AN ACT concerning the use of certain illuminating devices for hunting purposes and amending R. S. 23:4-45.

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

1. R. S. 23:4-45 is amended to read as follows:

Deer-hunting restrictions.

23:4-45. a. No person shall hunt for, pursue, stalk, shoot at or attempt to take, kill, injure or destroy a wild deer, except by daylight on the days and at the times designated by the State Fish and Game Code.

b. No person or persons while in or on a vehicle shall throw or cast the rays of any illuminating device including, but not limited to, a spotlight, flashlight, floodlight or headlight, which is affixed to a vehicle or which is portable, on or in any area where deer may reasonably be expected to be found, while having in his or their possession or control, or in or on the vehicle, or any compartment thereof, whether or not the vehicle or compartment is locked, any firearm, weapon or other instrument capable of killing deer; except that the foregoing shall not apply to a duly constituted law enforcement officer while in the actual performance of his duties as such officer. This subsection shall not apply to the normal use of headlights on a vehicle traveling on any public or private road in a normal manner.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 510

AN ACT concerning medical assistance for needy persons and amending P. L. 1985, c. 371.

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

1. Section 5 of P. L. 1985, c. 371 is amended to read as follows:

5. This act shall take effect on July 1, 1986, but all arrangements necessary or appropriate to enable this act to become fully effective on this date shall be made as promptly as possible as though this act were effective immediately. The department shall submit to the Legislature on a monthly basis a progress report detailing the status of implementation and any problems which have been encountered.

2. This act shall take effect upon the enactment into law of Assembly Bill No. 608 3rd OCR of 1984.

Approved January 21, 1986.

CHAPTER 511

AN ACT temporarily making permissive the implementation of a revaluation of real property in certain municipalities.

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

1. Notwithstanding any provisions of law or any judicial order to the contrary, no city of the first class having a population in excess of 300,000, according to the 1980 federal decennial census, shall be required to implement a revaluation of real property for any tax year commencing or terminating within nine months after the completion of the final report of the Property Tax Assessment Study Commission, created by Joint Resolution No. 3 of 1983 and extended by Joint Resolution No. 4 of 1984. The determination of a city not to implement a revaluation pursuant to this act shall not prevent the city from conducting and implementing any partial or complete reassessment of real property in the city during the period covered by this act.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 512

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

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

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices relating to such election were not published as required by the provisions of N. J. S. 18A:14-25, as amended; provided that notices of such election were published and posted prior to the election as required by the provisions of N. J. S. 18A:14-19; and provided further that no action, suit or proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

Approved January 21, 1986.

CHAPTER 513

AN ACT concerning education and amending N. J. S. 18A:39-1.

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

1. N. J. S. 18A:39-1 is amended to read as follows:

Transportation of pupils.

18A:39-1. Whenever in any district there are pupils residing remote from any schoolhouse, the board of education of the district

may make rules and contracts for the transportation of such pupils to and from school, including the transportation of school pupils to and from school other than a public school, except such school as is operated for profit in whole or in part.

When any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation shall be supplied to school pupils residing in such school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 20 miles from the residence of the pupil; except that if the district is located in a county of the third class with a population of not less than 80,000 and not more than 120,000, transportation shall be provided to a nonpublic school located outside the State not more than 20 miles from the residence of the pupil, if there is no appropriate nonpublic school within the State located closer to the residence of the pupil; provided the per pupil cost of the lowest bid received does not exceed \$325.00 and if such bid shall exceed said cost then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive said amount toward the cost of his transportation to a qualified school other than a public school, regardless of whether such transportation is along established public school routes. It shall be the obligation of the parent, guardian or other person having legal custody of the pupil attending a remote school, other than a public school, not operating for profit in whole or in part, to register said pupil with the office of the secretary of the board of education at the time and in the manner specified by rules and regulations of the State board in order to be eligible for the transportation provided by this section. If the registration of any such pupil is not completed by September 1 of the school year and if it is necessary for the board of education to enter into a contract establishing a new route in order to provide such transportation, then the board shall not be required to provide it, but in lieu thereof the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$325.00, or an amount computed by multiplying $\frac{1}{180}$ times the number of school days remaining in the school year at the time of registration, times \$325.00, whichever is the smaller amount. Whenever any regional school district provides any transportation for pupils attending schools other than public schools pursuant to this section, said regional district shall assume responsibility for the transportation of all such pupils, and the cost of such trans-

portation for pupils below the grade level for which the regional district was organized shall be prorated by the regional district among the constituent districts on a per pupil basis, after approval of such costs by the county superintendent. This section shall not require school districts to provide any transportation for pupils attending a school other than a public school, where the only transportation presently provided by said district is for school children transported pursuant to chapter 46 of this Title or for pupils transported to a vocational, technical or other public school offering a specialized program. Any transportation to a school other than a public school shall be pursuant to the same rules and regulations promulgated by the State board as governs transportation to any public school.

Nothing in this section shall be so construed as to prohibit a board of education from making contracts for the transportation of pupils to a school in an adjoining district, when such pupils are transferred to the district by order of the county superintendent, or when any pupils shall attend school in a district other than that in which they shall reside by virtue of an agreement made by the respective boards of education.

Nothing herein contained shall limit or diminish in any way any of the provisions for transportation for children pursuant to chapter 46 of this Title.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 514

AN ACT to amend the "Medical and Dental Education Act of 1970," approved June 16, 1970 (P. L. 1970, c. 102).

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

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

C. 18A:64G-6 Powers, duties of university trustees.

6. The board of trustees of the university, within the general policies and guidelines set by the Board of Higher Education, shall

have the general supervision over and be vested with the conduct of the university, including its health care facilities regardless of the source of funding. It shall have the power and duty to:

- (a) Adopt and use a corporate seal;
- (b) Determine the educational curriculum and program of the university;
- (c) Determine policies for the organization, administration, and development of the university;
- (d) Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the State Board of Higher Education in accordance with law;
- (e) Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;
- (f) Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury and to the Chancellor of Higher Education. All accounts of the university shall be subject to audit by the State at any time;
- (g) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university;
- (h) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative and teaching staffs as shall be required and fix their compensation and terms of employment;
- (i) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, remove, promote and transfer such other officers, agents, or employees as may be required to carry out the provisions of this act and assign their

duties, determine their salaries, and prescribe qualifications for all positions and in accordance with the salary schedules of the Civil Service Commission wherever possible;

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

(k) Grant diplomas, certificates or degrees;

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

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

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

(2) Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds \$12,500.00 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be

required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P. L. 1954, c. 48 (C. 52:34-9 and 10) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing January 1, 1985 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

(3) Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings. All capital expenditures in excess of \$500,000.00 shall be subject to the approval of the Board of Higher Education; and

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

(o) Borrow money for the needs of the university, as deemed requisite by the board, in such amounts and for such time and upon

such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

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

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

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

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

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 515

AN ACT concerning the elimination of sex as a basis for conferring certain benefits and revising parts of the statutory law.

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

1. R. S. 54:4-3.7 is amended to read as follows:

Charitable institution tax exemption.

54:4-3.7. The funds of all charitable and benevolent institutions and associations collected and held exclusively for the sick and dis-

abled members thereof, or for the surviving spouses of deceased members, or for the education, support or maintenance of the children of deceased members, and all endowments and funds held and administered exclusively for charitable, benevolent, religious or hospital purposes within this State shall be exempt from taxation under this chapter.

2. Section 1 of P. L. 1948, c. 259 (C. 54:4-3.30) is amended to read as follows:

C. 54:4-3.30 Disabled veteran's exemption.

1. a. The dwelling house and the lot or curtilage whereon the same is erected, of any citizen and resident of this State, now or hereafter 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, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability from paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of the use of both legs, or permanent paralysis of both legs and lower parts of the body, or from hemiplegia and has permanent paralysis of one leg and one arm or either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain or from disease of the spinal cord not resulting from any form of syphilis; or from total blindness; or from amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and a foot; or from other service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100% permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy action, or accident, or resulting from disease contracted while in such active service, shall be exempt from taxation, on proper claim made therefor, and such exemption shall be in addition to any other exemption of such person's real and personal property which now is or hereafter shall be prescribed or allowed by the Constitution or by law but no taxpayer shall be allowed more than one exemption under this act.

b. The surviving spouse of any such citizen and resident of this State, who at the time of death was entitled to the exemption provided under this act, shall be entitled, on proper claim made therefor, to the same exemption as the deceased had, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving

spouse is the legal owner thereof and actually occupies the said dwelling house or any other dwelling house thereafter acquired.

c. The surviving spouse of any citizen and resident of this State, who died in active service in time of war in any branch of the Armed Forces of the United States, shall be entitled, on proper claim made therefor, to an exemption from taxation on the dwelling house and lot or curtilage whereon the same is erected, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling or any other dwelling house thereafter acquired.

d. The surviving spouse of any citizen and resident of this State who died prior to January 10, 1972, that being the effective date of P. L. 1971, c. 398, and whose circumstances were such that, had said law become effective during the deceased's lifetime, the deceased would have become eligible for the exemption granted under this section as amended by said law, shall be entitled, on proper claim made therefor, to the same exemption as the deceased would have become eligible for upon the dwelling house and lot or curtilage occupied by the deceased at the time of death, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling house on the premises to be exempted.

e. Nothing in this act shall be intended to include paraplegia or hemiplegia resulting from locomotor ataxia or other forms of syphilis of the central nervous system, or from chronic alcoholism, or to include other forms of disease resulting from the veteran's own misconduct which may produce signs and symptoms similar to those resulting from paraplegia, osteochondritis, or hemiplegia.

3. Section 2 of P. L. 1948, c. 259 (C. 54:4-3.31) is amended to read as follows:

C. 54:4-3.31 Filing of claim.

2. All exemptions from taxation under this act shall be allowed by the assessor upon the filing with him of a claim in writing under oath, made by or on behalf of the person claiming the same, showing the right to the exemption, briefly describing the property for which exemption is claimed and having annexed thereto a certificate of the claimant's honorable discharge or release under honorable circumstances, from active service, in time of war, in any branch of the armed forces and a certificate from the United States Veterans

Administration or its successor, certifying to a service-connected disability of such claimant of the character described in section 1 of this act. In the case of a claim by a surviving spouse of such veteran, the claimant shall establish in writing under oath that the claimant is the owner of the legal title to the premises on which exemption is claimed; that the claimant occupies the dwelling house on said premises as the claimant's legal residence in this State; that the veteran shall have been declared by the United States Veterans Administration to have a service-connected disability of a character described in this act, or, in the case of a claim for an exemption under subsection c. of section 1 of this act (C. 54:4-3.30), that the veteran shall have been declared to have died in active service in time of war; that the veteran was entitled to an exemption provided for in this act, except for an exemption under subsection c. of section 1 hereof, at the time of death; and that the claimant is a resident of this State and has not remarried. Such exemptions shall be allowed and prorated by the assessor for the remainder of any taxable year from the date the claimant shall have acquired title to the real property intended to be exempt by this act. Where a portion of a multiple-family building or structure occupied by the claimant is the subject of such exemption, the assessor shall aggregate the assessment on the lot or curtilage and building or structure and allow an exemption of that percentage of the aggregate assessment as the value of the portion of the building or structure occupied by the claimant bears to the value of the entire building or structure.

4. Section 1 of P. L. 1976, c. 72 (C. 54:4-3.80) is amended to read as follows:

C. 54:4-3.80 Homestead rebate.

1. a. Every citizen and resident of this State shall be entitled, annually, to a homestead rebate on a dwelling house and the land upon which such dwelling house is situated, or on a dwelling house assessed as real estate situated on land owned by another or others which constitutes the place of domicile and which is owned and used by the citizen and resident as a principal residence. If such citizen and resident of this State is of the age of 65 or more years, or is less than 65 years of age yet permanently and totally disabled, as "disabled" is defined in the "New Jersey Gross Income Tax Act" (N. J. S. 54A:1-2f.), or is the surviving spouse of a deceased citizen and resident of this State who, while alive, received a real property tax deduction pursuant to this act or P. L. 1963, c. 172 (C. 54:4-8.40

et seq.), upon the same conditions, with respect to real property, notwithstanding that said surviving spouse is under the age of 65 and is not permanently and totally disabled, provided that said surviving spouse was 55 years of age or older at the time of death of said citizen and resident and remains unmarried, said taxpayer shall annually, upon proper claim being made therefor, be entitled to an additional rebate as set forth in section 2 of this act. The said requirement of ownership shall be satisfied by the holding of the beneficial interest where the legal title thereto is held by another for the benefit of the said citizen and resident, or for a resident shareholder in a cooperative or mutual housing corporation as defined herein.

A person who is a tenant for life or a tenant under a lease for 99 years or more or a person who is entitled to and actually takes possession of the land and dwelling house under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan shall be deemed to be an owner for the purpose of this act.

b. As used in this act "dwelling house" includes any residential property assessed as real property consisting of not more than four units of which not more than one may be used for business or commercial purposes.

c. As used in this act "residential shareholder in a cooperative" means a tenant-stockholder in a cooperative housing corporation who may deduct property taxes on his federal tax return pursuant to the provisions of section 216 of the Internal Revenue Code of 1954 as of the date of this amendatory act.

d. As used in this act "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 Lanham Act (National Defense Housing), P. L. 849, 76th Congress; 54 Stat. 1125, 42 U. S. C. § 1521 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

5. Section 1 of P. L. 1951, c. 135 (C. 54:4-4.4) is amended to read as follows:

C. 54:4-4.4 Initial, further statements.

1. Every municipal tax assessor shall, on or before October 1, 1951, obtain from each owner of real property in his taxing district, for which a tax exemption is claimed, an initial statement

under oath in such form as shall be prescribed by the Director of the Division of Taxation, showing the right to the exemption claimed. Thereafter, and on or before November 1 of each year, said assessor shall obtain an initial statement, if one has not theretofore been filed. When an initial statement has theretofore been filed, then not later than November 1, 1954, and thereafter not later than November 1 of every third succeeding year, said assessor shall obtain a further statement under oath from each owner of real property for which tax exemption is claimed, provided, however, that nothing herein contained shall require a further statement to be filed in the same year in which an initial statement shall have been filed, but that the further statement shall thereafter be filed at the time and in the years hereinabove required for the filing of further statements. Each assessor may at any time inquire into the right of a claimant to the continuance of an exemption hereunder and for that purpose he may require the filing of a further statement or the submission of such proof as he shall deem necessary to determine the right of the claimant to continuance of the exemption. Such further statement shall be in such form as shall be prescribed by the director and shall set forth

(a) Whether there has been any change of use of any of such property initially determined as being entitled to exemption during any three-year period as aforesaid which would defeat the right of exemption therein, and

(b) Whether any new or additional property has been acquired for which a tax exemption is claimed and showing initially as to such new or additional property, the right to the exemption claimed.

The municipal tax assessor shall obtain the aforesaid statements in duplicate from the property owner, and the assessor shall file the duplicate copy thereof with the county board of taxation with his list of property exempt from taxation, on or before January 10 following.

The provisions of this section shall not apply to any claim for tax exemption under Article VIII, Section I, paragraph 3, of the Constitution, or under any law enacted pursuant thereto, for the benefit of veterans, disabled veterans and the surviving spouses of those citizens and residents of this State who have met or may hereafter meet their deaths while on active duty in time of war in any branch of the Armed Forces of the United States.

6. 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:

The Vietnam conflict, December 31, 1960, to the date of termination as proclaimed by the Governor;

The Korean conflict, June 23, 1950 to July 27, 1953;

World War II, December 7, 1941 to September 2, 1945;

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.

7. Section 2 of P. L. 1963, c. 171 (C. 54:4-8.11) is amended to read as follows:

C. 54:4-8.11 \$50 veteran's tax deduction.

2. Every person a citizen and resident of this State now or hereafter 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 and a surviving spouse as defined herein, during her widowhood or his widowerhood, and while a resident of this State, shall be entitled, annually, on proper claim being made therefor, to a deduction from the amount of any tax bill for taxes on real or personal property or both in the sum of \$50.00 or if the amount of any such tax shall be less than \$50.00, to a cancellation thereof.

8. Section 3 of P. L. 1963, c. 171 (C. 54:4-8.12) is amended to read as follows:

C. 54:4-8.12 Application for tax deduction.

3. No veteran's deduction from taxes assessed against real and personal property, as provided herein, shall be allowed except upon written application therefor, which 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 hereunder by the governing body of the municipality constituting the taxing district in which such claim is to be filed and the application has been approved as provided in this act. An assessor shall not require the filing of an application for a veteran's deduction under this act of any person who has filed, or shall file, a claim for an exemption from taxation under chapter 184 of the laws of 1951, on or before December 31, 1963, but shall approve a veteran's deduction for such person, if it appears from such claim for exemption that such person meets all the other prerequisites required by law for the approval of a claim for a veteran's deduction. Each assessor may at any time inquire into the right of a claimant to the continuance of a veteran's deduction hereunder and for that purpose he may require the filing of a new application or the submission of such proof as he shall deem necessary to determine the right of the claimant to continuance of such deduction. No application for a veteran's deduction based upon service in the Armed Forces shall be allowed unless there is annexed thereto a copy, which may be photostatic, of claimant's certificate of honorable discharge or of his certificate of release under honorable circumstances from active service in time of war in a branch of the Armed Forces of the United States. In the case of an application by a surviving spouse said application shall not be allowed unless it clearly establishes that:

(a) Claimant's spouse died while on active duty in a branch of the Armed Forces of the United States, having had active service in time of war, as herein defined, in a branch of the Armed Forces of the United States, or in the case of a surviving spouse of a veteran, claimant shall establish that the veteran was 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, (b) claimant's spouse was a citizen and resident of this State at the time of death, (c) claimant was the spouse of the

veteran at the time of the veteran's death, and (d) claimant is a resident of this State and has not remarried.

9. Section 4 of P. L. 1963, c. 171 (C. 54:4-8.13) is amended to read as follows:

C. 54:4-8.13 Filing of application with assessor.

4. An application for a veteran's deduction hereunder may be filed with the assessor of the taxing district at any time on or before December 31 of the pretax year. If so filed and approved by the assessor, he shall allow a veteran's deduction from taxes on the real or personal property, or both, assessed to the claimant in the amount of the claim approved by him and shall indicate, upon the assessment list and duplicates, the approval thereof in such manner as shall be prescribed by rules of the Director of the Division of Taxation, together with the proportionate share of such property deemed to be owned by the claimant for the purposes of this act, if the claimant is not the sole owner thereof. The application, if not filed with the assessor within the time aforementioned, may be filed with the collector during the tax year and upon approval by the collector of such application he shall determine the amount of the reduction in tax to which the claimant is entitled and shall allow said amount as an offset against the tax then remaining unpaid. If the amount allowable as an offset shall exceed the amount of the tax then unpaid for that tax year, or if the application for a veteran's deduction is not filed with the collector until after all taxes for the tax year have been fully paid, the claimant may make application to the governing body of the municipality constituting the taxing district for the refund of any tax overpaid, but without interest, and the governing body may, in its discretion, direct the return of any tax deemed by it to have been overpaid by reason of claimant's failure to make timely application for a veteran's deduction; provided, however, that no application for a veteran's deduction for any previous tax year shall be allowed by any assessor, collector or governing body. Where an application for a veteran's deduction is filed with and allowed by a collector he shall promptly transmit such application and all exhibits attached thereto, or a photostatic copy thereof, to the assessor of the taxing district. Upon receipt thereof the assessor shall review the application and if approved by him it shall have the same force as if originally filed with him.

10. Section 6 of P. L. 1963, c. 171 (C. 54:4-8.15) is amended to read as follows:

C. 54:4-8.15 Support of claim.

6. Every fact essential to support a claim for a veteran's deduction hereunder shall exist on October 1 of the pretax year and in the case of an application by a veteran such application shall establish that the claimant was, on October 1 of the pretax year, (a) a veteran, as herein defined, (b) the owner of the legal title to the property as to which the veteran's deduction is claimed and (c) a citizen and resident of this State and, in the case of an application by a surviving spouse, as herein defined, such application shall establish that the surviving spouse was, on October 1 of the pretax year, (a) the owner of the legal title to the property as to which the veteran's deduction is claimed, (b) that he or she has not remarried and (c) that he or she is a resident of this State.

11. Section 7 of P. L. 1963, c. 171 (C. 54:4-8.16) is amended to read as follows:

C. 54:4-8.16 Continuance of deduction.

7. A claim having been filed with and allowed by the assessor shall continue in force from year to year thereafter without the necessity for further claim so long as the claimant shall be entitled to a veteran's deduction hereunder, but the assessor may at any time require the filing of a new application or such proof as he shall deem necessary to establish the right of the claimant to continuance of the deduction. It shall be the duty of every claimant to inform the assessor of any change in his or her status or property which may affect the claimant's right to continuance of the deduction.

12. Section 8 of P. L. 1963, c. 171 (C. 54:4-8.17) is amended to read as follows:

C. 54:4-8.17 Additional deductions.

8. No person shall be allowed a veteran's deduction from the tax assessed against real and personal property of more than \$50.00 in the aggregate in any one year, but a veteran's deduction may be claimed in any taxing district in which the claimant has taxable property and may be apportioned, at the claimant's option, between two or more taxing districts; provided such claims shall not exceed \$50.00 in the aggregate. If a surviving spouse, as herein defined, shall have been 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, the surviving spouse shall be entitled to a veteran's deduction for each status. The veteran's deductions herein provided shall be in addition to

any exemptions now or hereafter provided by any other statute for disabled veterans or surviving spouses, as herein defined, and in addition to any deductions provided under P. L. 1963, c. 172 (C. 54:4-8.40 et seq.) for senior citizens and the permanently and totally disabled, and certain surviving spouses thereof, to which the claimant is entitled. In addition, a claimant may receive any home-
stead rebate or credit provided by law.

13. Section 9 of P. L. 1963, c. 171 (C. 54:4-8.18) is amended to read as follows:

C. 54:4-8.18 Proportionate deduction.

9. Where title to property as to which a veteran's deduction is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, a claimant shall not be allowed a veteran's deduction in an amount in excess of his or her proportionate share of the taxes assessed against said property, which proportionate share, for the purposes of this act, shall be deemed to be equal to that of each of the other tenants, unless the conveyance under which title is held specifically provides unequal interests, in which event claimant's interest shall be as specifically established in said conveyance. Property held by husband and wife, as tenants by the entirety, shall be deemed to be wholly owned by each tenant. Nothing herein shall preclude more than one tenant, whether title be held in common, joint tenancy or by the entirety, from claiming a veteran's deduction from the tax assessed against the property so held. Right to claim a veteran's deduction hereunder shall extend to property title to which is held by a partnership, to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a veteran's deduction hereunder, but not to property the title to which is held by a corporation.

14. Section 16 of P. L. 1945, c. 132 (C. 54:18A-9) is amended to read as follows:

C. 54:18A-9 Fraternal beneficiary society exemption.

16. This act shall not apply to any fraternal beneficiary society. For the purposes of this act, "insurance company" shall include a corporation, and any person, partnership or unincorporated association required as an insurer to procure from the Commissioner of Insurance the certificate prescribed by section 1 of an act entitled "An act to regulate the transaction of the business of insurance by individuals, partnerships and unincorporated associa-

tions in this State" approved July 11, 1939 (P. L. 1939, c. 188; C. 17:49-1), or under any other statute now in force or hereafter enacted, engaging in any kind or kinds of business specified in R. S. 17:17-1, subject to the insurance laws of this State; provided, however, that no company or society, which by its act or certificate of incorporation has for its object the assistance of sick, needy or disabled members, the defraying of funeral expenses of deceased members and the provision for the wants of the surviving spouses and families of members after death, shall be deemed an insurance company within the purview of this act.

15. Section 102 of P. L. 1948, c. 65 (C. 54:40A-2) is amended to read as follows:

C. 54:40A-2 Cigarette tax act definitions.

102. For the purposes of this act and unless otherwise required by the context:

a. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

b. "Director" means the Director of the Division of Taxation, in the Department of the Treasury.

c. "Distributor" means and includes any person, wherever resident or located, who brings or causes to be brought into this State unstamped cigarettes purchased directly from the manufacturers thereof and stores, sells or otherwise disposes of the same after they shall reach this State.

d. "Wholesale dealer" shall include any person, wherever resident or located, other than a distributor, as defined herein, who:

(1) Purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers or to other persons for the purposes of resale only; or

(2) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

e. "Retail dealer" means any person who is engaged in this State in the business of selling cigarettes at retail. Any person

placing a cigarette vending machine at, on or in any premises shall be deemed to be a retail dealer for each such vending machine.

f. "Consumer" means any person except a distributor or a manufacturer who acquires for consumption, storage or use in this State cigarettes to which New Jersey revenue stamps have not been attached.

g. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are brought or kept for the purpose of sale or consumption, including so far as applicable any vessel, vehicle, airplane, train or cigarette vending machine.

h. "Licensed distributor" means any distributor, as defined in this act, licensed under the provisions of this act.

i. "Licensed wholesale dealer" means any wholesale dealer, as defined in this act, licensed under the provisions of this act.

j. "Licensed retail dealer" means any retail dealer, as defined in this act, licensed under the provisions of this act.

k. "Licensed consumer" means any consumer, as defined in this act, licensed under the provisions of this act.

l. "Person" means any individual, firm, corporation, copartnership, joint venture, association, receiver, trustee, guardian, executor, administrator, or any other person acting in a fiduciary capacity, or any estate, trust or group or combination acting as a unit, the State Government and any political subdivision thereof, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

m. "Rules and regulations" means those made and promulgated by the director in the administration of this act.

n. "Sale" means any sale, transfer, exchange, theft, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever.

o. "Stamp" means any impression, device, stamp, label or print manufactured, printed or made as prescribed by the director.

p. "Taxpayer" means any person subject to a tax imposed by this act, or any person required to be licensed under this act.

q. "Treasurer" means the State Treasurer.

r. "Use" means the exercise of any right or power incidental to the ownership of cigarettes.

s. "Manufacturer" means and includes any person, wherever resident or located, who manufactures or produces, or causes to

be manufactured or produced, cigarettes and sells, uses, stores or distributes the same regardless of whether they are intended for sale, use or distribution within or without this State.

t. "Manufacturer's representative" means and includes any person, employed by a manufacturer, who, for promotional purposes, sells, stores, handles or distributes cigarettes, within this State, limited exclusively to cigarettes manufactured by the employing manufacturer.

u. "Licensed manufacturer" means any manufacturer, as defined in this act, licensed under the provisions of this act.

v. "Licensed manufacturer's representative" means any manufacturer's representative, as defined in this act, licensed under the provisions of this act.

16. N. J. S. 54A:9-16 is amended to read as follows:

Armed forces relief provisions.

54A:9-16. Armed forces relief provisions. (a) Time to be disregarded. In the case of an individual serving in the Armed Forces of the United States, or serving in support of such armed forces, in an area designated by the President of the United States by executive order as a "combat zone" at any time during the period designated by the President by executive order as the period of combatant activities in such zone, or hospitalized outside the State as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous hospitalization outside the State attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under this act, in respect of the income tax liability (including any interest, penalty, or addition to the tax) of such individual.

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income tax (except withholding tax);

(B) Payment of any income tax (except withholding tax) or any installment thereof or of any other liability to the State, in respect thereof;

(C) Filing a petition with the director for credit or refund or for redetermination of a deficiency, or application for review of a decision rendered by the director;

(D) Allowance of a credit or refund of income tax;

(E) Filing a claim for credit or refund of income tax;

(F) Assessment of income tax;

(G) Giving or making any notice or demand for the payment of any income tax, or with respect to any liability to the State in respect of income tax;

(H) Collection, by the director, by levy or otherwise of the amount of any liability in respect of income tax;

(I) Bringing suit by the State, or any officer, on its behalf, in respect of any liability in respect of income tax; and

(J) Any other act required or permitted under this act or specified in regulations prescribed under this section by the director.

(2) The amount of any credit or refund (including interest).

(b) Action taken before ascertainment of right to benefits. The assessment or collection of the tax imposed by this act or of any liability to the State in respect of such tax, or any action or proceeding by or on behalf of the State in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(c) Members of armed forces dying in action. In the case of any person who dies during an induction period while in active service as a member of the Armed Forces of the United States, if such death occurred while serving in a combat zone during a period of combatant activities in such zone, as described in subsection (a), or as a result of wounds, disease or injury incurred while so serving, the tax imposed by this act shall not apply with respect to the taxable year in which falls the date of death, or with respect to any prior taxable year ending on or after the first day served in a combat zone, and no return shall be required in behalf of such person or such person's estate for such year, and the tax of any such taxable year which is unpaid at the date of death, including interest, additions to tax and penalties, if any, shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be refunded to the legal representative of the estate if one has been appointed and has qualified, or, if no legal representative has been appointed or has qualified, to the surviving spouse.

17. (New section) Notwithstanding the provisions of section 3 of P. L. 1948, c. 259 (C. 54:4-3.32) and section 4 of P. L. 1963, c. 171.

(C. 54:4-8.13), any person eligible for an exemption or deduction under this 1985 amendatory and supplementary act may apply therefor within 90 days from the first day of the month following enactment of this act, and that application shall be considered timely filed.

18. This act shall take effect immediately and shall apply retroactive to January 1, 1976.

Approved January 21, 1986.

CHAPTER 516

AN ACT to amend and supplement the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).

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

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

C. 40:55D-2 Purpose of the act.

2. Purpose of the act. It is the intent and purpose of this act:
- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
 - b. To secure safety from fire, flood, panic and other natural and man-made disasters;
 - c. To provide adequate light, air and open space;
 - d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
 - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
 - f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;

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g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;

j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;

k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;

l. To encourage senior citizen community housing construction;

m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land; and

n. To promote utilization of renewable energy sources.

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.

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.

“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 which has been formally designated in the master plan as being 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.

“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 5 of P. L. 1975, c. 291 (C. 40:55D-9) is amended to read as follows:

C. 40:55D-9 Meetings; municipal agency.

5. Meetings; municipal agency. a. Every municipal agency shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by such agency. Regular meetings of the municipal agency shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development to process. The municipal agency may provide for special meetings, at the call of the chairman, or on the request of any two of its members, which shall be held on notice to its members and the public in accordance with municipal regulations. No action shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of the members of the municipal agency present at the meeting, except as otherwise required by sections 23, 25, 49, 50, and subsections 8e., 17a., 17b. and 57d. of this act. Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application. Nothing herein shall be construed to contravene any act providing for procedures for governing bodies.

b. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with municipal regulations. An executive session for the purpose of discussing and studying any matters to come before

the agency shall not be deemed a regular or special meeting within the meaning of this act.

c. Minutes of every regular or special meeting shall be kept and shall include the names of persons appearing and addressing the municipal agency and of the persons appearing by attorney, the action taken by the municipal agency, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the administrative officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his use.

4. Section 8 of P. L. 1979, c. 216 (C. 40:55D-10.1) is amended to read as follows:

C. 40:55D-10.1 Informal review.

8. At the request of the developer, the planning board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by any concept plan for which review is requested, and the planning board shall not be bound by any such review.

C. 40:55D-10.4 Default approval.

5. (New section) An applicant shall comply with the provisions of this section whenever the applicant wishes to claim approval of his application for development by reason of the failure of the municipal agency to grant or deny approval within the time period provided in the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.) or any supplement thereto.

a. The applicant shall provide notice of the default approval to the municipal agency and to all those entitled to notice by personal service or certified mail of the hearing on the application for development; but for purposes of determining who is entitled to notice, the hearing on the application for development shall be deemed to have required public notice pursuant to subsection a. of section 7.1 of P. L. 1975, c. 291 (C. 40:55D-12).

b. The applicant shall arrange publication of a notice of the default approval in the official newspaper of the municipality, if

there be one, or in a newspaper of general circulation in the municipality.

c. The applicant shall file an affidavit of proof of service and publication with the administrative officer, who in the case of a minor subdivision or final approval of a major subdivision, shall be the officer who issues certificates pursuant to section 35, subsection b. of section 38 or subsection c. of section 63 of P. L. 1975, c. 291 (C. 40:55D-47; C. 40:55D-50; C. 40:55D-76), as the case may be.

6. Section 7.5 of P. L. 1975, c. 291 (C. 40:55D-16) is amended to read as follows:

C. 40:55D-16 Filing of ordinances.

7.5. Filing of ordinances. Development regulations, except for the official map, shall not take effect until a copy thereof shall be filed with the county planning board. A zoning ordinance or amendment or revision thereto which in whole or in part is inconsistent with or not designed to effectuate the land use plan element of the master plan shall not take effect until a copy of the resolution required by subsection a. of section 49 of P. L. 1975, c. 291 (C. 40:55D-62) shall be filed with the county planning board. The secretary of the county planning board shall within 10 days of the date of receipt of a written request for copies of any development regulation make such available to the party so requesting with said secretary's certification that said copies are true copies and that all filed amendments and resolutions are included. A reasonable charge may be made by the county planning board for said copies.

The official map of the municipality shall not take effect until filed with the county recording officer.

Copies of all development regulations and any revisions or amendments thereto shall be filed and maintained in the office of the municipal clerk.

7. Section 14 of P. L. 1975, c. 291 (C. 40:55D-23) is amended to read as follows:

C. 40:55D-23 Planning board membership.

14. Planning board membership. a. The governing body may, by ordinance, create a planning board of seven or nine members. The membership shall consist of, for convenience in designating the manner of appointment, the four following classes:

Class I — the mayor or, in the case of the council-manager form of government pursuant to the "Optional Municipal Charter Law,"

P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or "The Municipal Manager Form of Government Law" (Subtitle 5 of Title 40 of the Revised Statutes), the manager, if so provided by the aforesaid ordinance.

Class II— one of the officials of the municipality other than a member of the governing body, to be appointed by the mayor; provided that if there be an environmental commission, the member of the environmental commission who is also a member of the planning board as required by section 1 of P. L. 1968, c. 245 (C. 40:56A-1), shall be deemed to be the Class II planning board member for purposes of this act in the event that there be among the Class IV or alternate members of the planning board both a member of the zoning board of adjustment and a member of the board of education.

Class III—a member of the governing body to be appointed by it, except that no member for Class III shall be appointed to the planning board if the governing body consists of only three members.

Class IV — other citizens of the municipality, to be appointed by the mayor or, in the case of the council-manager form of government pursuant to the "Optional Municipal Charter Law," P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or "The Municipal Manager Form of Government Law" (Subtitle 5 of Title 40 of the Revised Statutes), by the council, if so provided by the aforesaid ordinance.

The members of Class IV shall hold no other municipal office, position or employment, except that in the case of nine-member boards, one such member may be a member of the zoning board of adjustment or historic preservation commission. No member of the board of education may be a Class IV member of the planning board, except that in the case of a nine-member board, one Class IV member may be a member of the board of education. If there be a municipal environmental commission, the member of the environmental commission who is also a member of the planning board, as required by section 1 of P. L. 1968, c. 245 (C. 40:56A-1), shall be a Class IV planning board member, unless there be among the Class IV or alternate members of the planning board both a member of the zoning board of adjustment or historic preservation commission and a member of the board of education, in which case the member common to the planning board and municipal environmental commission shall be deemed a Class II member of the planning board. For the purpose of this section, membership on a municipal board or commission whose function is advisory in

nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

b. The term of the member composing Class I shall correspond to his official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the environmental commission. The term of a Class II or Class IV member who is also a member of the environmental commission shall be for three years or terminate at the completion of his term of office as a member of the environmental commission, whichever occurs first. The term of a Class IV member who is also a member of the board of adjustment or board of education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The terms of all Class IV members first appointed under this act shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment; provided that the initial Class IV term of no member shall exceed four years. Thereafter, the Class IV term of each such member shall be four years. If a vacancy in any class shall occur otherwise than by expiration of the planning board term, it shall be filled by appointment, as above provided, for the unexpired term. No member of the planning board shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if he requests one, may be removed by the governing body for cause.

8. Section 16 of P. L. 1975, c. 291 (C. 40:55D-25) is amended to read as follows:

C. 40:55D-25 Powers of planning board.

16. Powers of planning board. a. The planning board shall follow the provisions of this act and shall accordingly exercise its power in regard to:

- (1) The master plan pursuant to article 3;
- (2) Subdivision control and site plan review pursuant to article 6;
- (3) The official map pursuant to article 5;
- (4) The zoning ordinance including conditional uses pursuant to article 8;

- (5) The capital improvement program pursuant to article 4;
- (6) Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to article 7.

b. The planning board may:

- (1) Participate in the preparation and review of programs or plans required by State or federal law or regulation;
- (2) Assemble data on a continuing basis as part of a continuous planning process; and
- (3) Perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

c. In a municipality having a population of 2,500 or less, a nine-member planning board, if so provided by ordinance, shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection d. of section 57 of P. L. 1975, c. 291 (C. 40:55D-70).

C. 40:55D-72.1 Continuation of application.

9. (New section) Any application for development submitted to the board of adjustment pursuant to lawful authority before the effective date of an ordinance pursuant to subsection c. of section 16 of P. L. 1975, c. 291 (C. 40:55D-25) may be continued at the option of the applicant, and the board of adjustment shall have every power which it possessed before the effective date of the ordinance in regard to the application.

10. Section 17 of P. L. 1975, c. 291 (C. 40:55D-26) is amended to read as follows:

C. 40:55D-26 Referral powers.

17. Referral powers. a. Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a development regulation, revision or amendment

thereto, shall review the report of the planning board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendation. Failure of the planning board to transmit its report within the 35-day period provided herein shall relieve the governing body from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the planning board. Nothing in this section shall be construed as diminishing the application of the provisions of section 23 of P. L. 1975, c. 291 (C. 40:55D-32) to any official map or an amendment or revision thereto or of subsection a. of section 49 of P. L. 1975, c. 291 (C. 40:55D-62) to any zoning ordinance or any amendment or revision thereto.

b. The governing body may by ordinance provide for the reference of any matter or class of matters to the planning board before final action thereon by a municipal body or municipal officer having final authority thereon, except for any matter under the jurisdiction of the board of adjustment. Whenever the planning board shall have made a recommendation regarding a matter authorized by this act to another municipal body, such recommendation may be rejected only by a majority of the full authorized membership of such other body.

11. 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 (11):

(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 subparagraph (1)

hereof, and other master plan elements provided for in subparagraphs (3) through (11) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodland; (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 hazard areas delineated pursuant to the "Air Safety and Hazardous 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 systematically analyzes the impact of each other component and element of the master plan on the present and future presentation, 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, significance, proposed utilization and means for preservation of historic sites and historic districts, and (b) identifying the standards used to assess worthiness for historic site or district designation; and

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

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 and (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.).

12. 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 52 c. of this act;

(6) Regulation of land designated as subject to flooding, pursuant to subsection 52 e., to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or water or from excavation or grading; and

(8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and Hazardous Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1-80 et seq.), for any airport hazard areas delineated under that act;

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.

13. 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 structures 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 hazard areas delineated under the "Air Safety and Hazardous 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.

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

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

52. Contents of zoning ordinance. A zoning ordinance may:

a. Limit and restrict buildings and structures to specified districts and regulate buildings and structures according to their type and the nature and extent of their use, and regulate the nature and extent of the use of land for trade, industry, residence, open space or other purposes.

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

c. Provide districts for planned developments; provided that an ordinance providing for approval of subdivisions and site plans by the planning board has been adopted and incorporates therein the provisions for such planned developments in a manner consistent

with article 6 of this act. The zoning ordinance shall establish standards governing the type and density, or intensity of land use, in a planned development. Said standards shall take into account that the density, or intensity of land use, otherwise allowable may not be appropriate for a planned development. The standards may vary the type and density, or intensity of land use, otherwise applicable to the land within a planned development in consideration of the amount, location and proposed use of common open space; the location and physical characteristics of the site of the proposed planned development; and the location, design and type of dwelling units and other uses. Such standards may, in order to encourage the flexibility of housing density, design and type, authorize a deviation in various residential clusters from the density, or intensity of use, established for an entire planned development. The standards and criteria by which the design, bulk and location of buildings are to be evaluated shall be set forth in the zoning ordinance and all standards and criteria for any feature of a planned development shall be set forth in such ordinance with sufficient certainty to provide reasonable criteria by which specific proposals for planned development can be evaluated.

d. Establish, for particular uses or classes of uses, reasonable standards of performance and standards for the provision of adequate physical improvements including, but not limited to, off-street parking and loading areas, marginal access roads and roadways, other circulation facilities and water, sewerage and drainage facilities; provided that section 41 of this act shall apply to such improvements.

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

f. Provide for conditional uses pursuant to section 54 of this act.

g. Provide for senior citizen community housing.

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

i. Designate historic sites or historic districts, regulate them and provide design criteria and guidelines for this regulation.

Designation and regulation pursuant to this subsection shall be in addition to such designation and regulation as the zoning ordinance may otherwise provide.

15. Section 55 of P. L. 1975, c. 291 (C. 40:55D-68) is amended to read as follows:

C. 40:55D-68 Nonconforming structures and uses.

55. Nonconforming structures and uses. Any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof.

The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the administrative officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the board of adjustment. The administrative officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in R. S. 54:5-14 and R. S. 54:5-15. The fees collected by the official shall be paid by him to the municipality. Denial by the administrative officer shall be appealable to the board of adjustment. Sections 59 through 62 of P. L. 1979, c. 291 (C. 40:55D-72 to C. 40:55D-75) shall apply to applications or appeals to the board of adjustment.

C. 40:55D-70.1 Annual report.

16. (New section) The board of adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The board of adjustment shall send copies of the report and resolution to the governing body and planning board.

C. 40:55D-85.1 Appeal of regional board approval.

17. (New section) a. In the case of any final decision of a regional planning board or regional zoning board of adjustment approving an application for development, the governing body of the municipality in which the land is situated which is the subject

of the application for development may hear and decide an appeal by any interested party of this approval if the application for development is of a class of applications for development specified by ordinance as so subject to appeal. The appeal shall be made within 10 days of the date of publication of the final decision pursuant to subsection i. of section 6 of P. L. 1975, c. 291 (C. 40:55D-10). The appeal to the governing body shall be made by serving the municipal clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his attorney, if represented. The appeal shall be decided by the governing body only upon the record established before the regional board.

b. Notice of the meeting to review the record below shall be given by the governing body by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to subsection h. of section 6 of P. L. 1975, c. 291 (C. 40:55D-10) and to the board from which the appeal is taken, at least 10 days prior to the date of the meeting. The parties may submit oral and written argument on the record at the meeting, and the governing body shall provide for verbatim recording and transcripts of the meeting pursuant to subsection f. of section 6 of P. L. 1975, c. 291 (C. 40:55D-10).

c. The appellant shall, (1) within five days of service of the notice of the appeal pursuant to subsection a. hereof, arrange for a transcript pursuant to subsection f. of section 6 of P. L. 1975, c. 291 (C. 40:55D-10) for use by the governing body and pay a deposit of \$50.00 or the estimated cost of such transcription, whichever is less, or (2) within 35 days of service of the notice of appeal, submit a transcript as otherwise arranged to the municipal clerk; otherwise, the appeal may be dismissed for failure to prosecute.

The governing body shall conclude a review of the record not later than 95 days from the date of publication of notice of the decision below pursuant to subsection i. of section 6 of P. L. 1975, c. 291 (C. 40:55D-10) unless the applicant consents in writing to an extension of the period. Failure of the governing body to hold a hearing and conclude a review of the record below and to render a decision within the specified period shall constitute a decision affirming the action of the board.

d. The governing body may reverse, remand, or affirm with or without the imposition of conditions the final decision of the regional board.

e. The affirmative vote of a majority of the full authorized membership of the governing body shall be necessary to reverse, remand, or affirm with or without conditions any final action of the regional board.

f. An appeal to the governing body shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the board from whose action the appeal is taken certifies to the governing body, after the notice of appeal shall have been filed with the board, that by reason of acts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the board from whom the appeal is taken and on good cause shown.

g. The governing body shall mail a copy of the decision to the appellant or if represented then to his attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the municipality, if there is one, or in a newspaper of general circulation in the municipality. The publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; but nothing contained herein shall be construed as preventing the applicant from arranging the publication if he so desires. The governing body may make a reasonable charge for its publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by the municipality or the applicant.

h. Nothing in this act shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

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

C. 40:55D-89 Periodic reexamination.

76. Periodic reexamination. The governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be

sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every six years from the previous reexamination.

The reexamination report shall state:

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

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

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

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

C. 40:55D-89.1 Rebuttable presumption.

19. (New section) The absence of the adoption by the planning board of a reexamination report pursuant to section 76 of P. L. 1975, c. 291 (C. 40:55D-89) shall constitute a rebuttable presumption that the municipal development regulations are no longer reasonable.

20. Section 77 of P. L. 1975, c. 291 (C. 40:55D-90) is amended to read as follows:

C. 40:55D-90 Moratoriums; interim zoning.

77. Moratoriums; interim zoning. a. The prohibition of development in order to prepare a master plan and development regulations is prohibited.

b. No moratoria on applications for development or interim zoning ordinances shall be permitted except in cases where the municipality demonstrates on the basis of a written opinion by a qualified health professional that a clear imminent danger to the health

of the inhabitants of the municipality exists, and in no case shall the moratorium or interim ordinance exceed a six-month term.

C. 40:55D-107 Historic preservation commission.

21. (New section) a. The governing body may by ordinance provide for a historic preservation commission.

b. Every historic preservation commission shall include, in designating the category of appointment, at least one member of each of the following classes:

Class A—a person who is knowledgeable in building design and construction or architectural history and who may reside outside the municipality; and

Class B—a person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the municipality.

c. A historic preservation commission shall consist of five, seven or nine regular members and may have not more than two alternate members. Of the regular members a total of at least one less than a majority shall be of Classes A and B.

Those regular members who are not designated as Class A or B shall be designated as Class C. Class C members shall be citizens of the municipality who shall hold no other municipal office, position or employment except for membership on the planning board or board of adjustment.

Alternate members shall meet the qualifications of Class C members. The mayor or, if so specified by ordinance, the chairman of the planning board shall appoint all members of the commission and shall designate at the time of appointment the regular members by class and the alternate members as "Alternate No. 1" and "Alternate No. 2." The terms of the members first appointed under this act shall be so determined that to the greatest practicable extent, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; provided that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years, and the term of an alternate member shall be two years. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. Notwithstanding any other provision herein, the term of any member common to the historic

preservation commission and the planning board shall be for the term of membership on the planning board; and the term of any member common to the historic preservation commission and the board of adjustment shall be for the term of membership on the board of adjustment.

The historic preservation commission shall elect a chairman and vice-chairman from its members and select a secretary, who may or may not be a member of the historic preservation commission or a municipal employee.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

d. No member of any historic preservation commission shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.

e. A member of a historic preservation body may, after public hearing if he requests it, be removed by the governing body for cause.

C. 40:55D-108 Funding.

22. (New section) a. The governing body shall make provision in its budget and appropriate funds for the expenses of the historic preservation commission.

b. The historic preservation commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by the governing body. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the governing body for the commission's use.

C. 40:55D-109 Responsibilities of commission.

23. (New section) The historic preservation commission shall have the responsibility to:

a. Prepare a survey of historic sites of the municipality pursuant to criteria identified in the survey report;

b. Make recommendations to the planning board on the historic preservation plan element of the master plan and on the implications for preservation of historic sites of any other master plan elements;

c. Advise the planning board on the inclusion of historic sites in the recommended capital improvement program;

d. Advise the planning board and board of adjustment on applications for development pursuant to section 24 of this amendatory and supplementary act;

e. Provide written reports pursuant to section 25 of this amendatory and supplementary act on the application of the zoning ordinance provisions concerning historic preservation; and

f. Carry out such other advisory, educational and informational functions as will promote historic preservation in the municipality.

C. 40:55D-110 Informational copies.

24. (New section) The planning board and board of adjustment shall make available to the historic preservation commission an informational copy of every application submitted to either board for development in historic zoning districts or on historic sites designated on the zoning or official map or in any component element of the master plan. Failure to make the informational copy available shall not invalidate any hearing or proceeding. The historic preservation commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

C. 40:55D-111 Referral to commission.

25. (New section) If the zoning ordinance designates and regulates historic sites or districts pursuant to subsection i. of section 52 of P. L. 1975, c. 291 (C. 40:55D-65), the governing body shall by ordinance provide for referral of applications for issuance of permits pertaining to historic sites or property in historic districts to the historic preservation commission for a written report on the application of the zoning ordinance provisions concerning historic preservation to any of those aspects of the change proposed, which aspects were not determined by approval of an application for development by a municipal agency pursuant to the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.). The historic preservation commission shall submit its report either to the administrative officer or the planning board, as specified by ordinance. If the ordinance specifies the submission of the historic preservation commission's report to the planning board, the planning board shall report to the administrative officer.

The historic preservation commission or the planning board, as the case may be, shall report to the administrative officer within

45 days of his referral of the application to the historic preservation commission. If within the 45-day period the historic preservation commission or the planning board, as the case may be, recommends to the administrative officer against the issuance of a permit or recommends conditions to the permit to be issued, the administrative officer shall deny issuance of the permit or include the conditions in the permit, as the case may be. Failure to report within the 45-day period shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit.

C. 40:55D-112 "Landmark" as substitute.

26. (New section) The word "landmark" may substitute, in any ordinance, resolution, determination or official action pursuant to the "Municipal Land Use Law" (C. 40:55D-1 et seq.) and this amendatory and supplementary act, for "historic," "historic preservation" and "historic site."

27. Section 56 of P. L. 1975, c. 291 (C. 40:55D-69) is amended to read as follows:

C. 40:55D-69 Zoning board of adjustment.

56. Zoning board of adjustment. Upon the adoption of a zoning ordinance, the governing body shall create, by ordinance, a zoning board of adjustment unless the municipality is eligible for, and exercises, the option provided by subsection c. of section 16 of P. L. 1975, c. 291 (C. 40:55D-25). A zoning board of adjustment shall consist of seven regular members and may have not more than two alternate members. Notwithstanding the provisions of any other law or charter heretofore adopted, such ordinance shall provide the method of appointment of all such members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2." The terms of the members first appointed under this act shall be so determined that to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; provided that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of each regular member shall be four years, and the term of each alternate member shall be two years. No member

may hold any elective office or position under the municipality. No member of the board of adjustment shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he requests it, be removed by the governing body for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

The board of adjustment shall elect a chairman and vice-chairman from its members and select a secretary, who may or may not be a member of the board of adjustment or a municipal employee.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

28. This act shall take effect 60 days following enactment.

Approved January 21, 1986.

CHAPTER 517

AN ACT authorizing a project addition to the New Jersey Turnpike and supplementing P. L. 1948, c. 454 (C. 27:23-1 et seq.).

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

C. 27:23-23.6 Turnpike interchange authorized.

1. Subject to the findings of a feasibility study, the New Jersey Turnpike Authority may construct, maintain and repair an interchange connecting Route 295 with the New Jersey Turnpike-Pennsylvania Extension in Burlington county.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 518

AN ACT concerning alcoholic beverage retail consumption licenses and repealing section 5 of P. L. 1968, c. 277.

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

Repealer.

1. Section 5 of P. L. 1968, c. 277 (C. 40:48-2.44) is repealed.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 519

AN ACT to amend "An act concerning payment of tax liens on fire damaged properties in certain instances," approved January 8, 1979 (P. L. 1978, c. 184).

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

1. Section 1 of P. L. 1978, c. 184 (C. 17:36-8) is amended to read as follows:

C. 17:36-8 Official certificate of search required.

1. No insurer issuing fire insurance policies in this State shall pay any claims for fire damages in excess of \$2,500.00 on any real property located within a municipality having adopted an ordinance pursuant to section 2 of this act, unless or until: the insured person submits an official certificate of search for municipal liens pursuant to R. S. 54:5-12, certifying that all taxes, assessments or other municipal liens or charges, levied and assessed and due and payable against said property have been paid and, if required by an ordinance adopted pursuant to paragraph (1) of subsection a. of that section, an official certificate, on a form prescribed and certified by the municipality, that demolition is not required or that the costs of demolition have been paid; or the municipality submits a

certified copy of a resolution adopted pursuant to section 4 of this act. If the demolition has not yet occurred on the date of receipt by a municipality of a request for execution of the certificate required by this section, the insured shall provide on that certificate an estimate of the anticipated costs of demolition. The insurer on notice to the insured shall pay the anticipated costs of demolition to the municipality, which shall hold the funds in an interest bearing escrow account in a State or federally chartered bank, savings bank or savings and loan association in this State.

Any request, pursuant to this section, for an official certificate of search for municipal liens shall specify that the search concerns fire damaged property.

2. Section 2 of P. L. 1978, c. 184 (C. 17:36-9) is amended to read as follows:

C. 17:36-9 Municipal ordinances authorized.

2. Any municipality may, by ordinance, prohibit the payment to a claimant by any insurance company of any claim in excess of \$2,500.00 for fire damages on any real property located within the municipality, pursuant to any fire insurance policy issued or renewed after the adoption of such ordinance and after the filing of such ordinance with the State Commissioner of Insurance, until such time as: a. (1) anticipated demolition costs and all taxes and assessments and all other municipal liens or charges due and payable, appearing on the official certificate of search; or (2) all taxes and assessments and all other municipal liens or charges due and payable, appearing on the official certificate of search, shall have been paid either by the owner of such real property or by the insurance company pursuant to the provisions of section 3 of this act; or b. the municipality submits to the insurance company a copy of a resolution adopted pursuant to section 4 of this act. No change in such an ordinance shall take effect until filed with the commissioner.

The State Commissioner of Insurance shall cause to have published in the New Jersey Register a list of all municipalities which have adopted ordinances pursuant to paragraph (1) or (2) of subsection a. of this section and said list shall designate by asterisk those municipalities which have adopted said ordinances since the previous date of publication of said list.

The official certificate of search may, from time to time, be altered, by the bonded official responsible for preparing such cer-

tificates, in order to correct any errors or omissions or to add any municipal liens or related charges due and payable subsequent to the preparation of the official certificate.

3. Section 3 of P. L. 1978, c. 184 (C. 17:36-10) is amended to read as follows:

C. 17:36-10 Payment of demolition costs, liens.

3. Unless a resolution is received in accordance with section 4 of this act by an insurance company writing fire insurance policies in any municipality having adopted an ordinance pursuant to section 2 of this act, such insurance company is hereby authorized and required, prior to the payment of any claims for fire damages in excess of \$2,500.00, to pay the amount of the anticipated demolition costs, if so required by the municipal ordinance, to the municipality in the manner provided by section 1 of this act and to pay to the municipality the amount of the liens appearing on the official certificate and such other recorded liens or related charges as may be certified to the insurance company. If an appeal is taken on the amount of any lien or charge, other than an appeal on the assessed valuation of real property pursuant to R. S. 54:3-21, the insurance company shall issue a draft payable to the court of record, to be held by the court in an interest bearing escrow account in a State or federally chartered bank, savings bank, or savings and loan association in the State, in an amount totaling 75% of the full amount of the lien or charge being contested, but not to exceed the proceeds payable under its insurance policy, and the insurance company shall issue a draft payable to the municipality for the remaining 25% of the lien or charge being contested, with the full amount paid by the insurance company to the court and the municipality not to exceed the proceeds payable under its insurance policy, pending termination of all proceedings, at which time such moneys and all interest accruing thereon, at a rate paid on interest bearing accounts in State or federally chartered banks, savings banks or savings and loan associations in the State, shall be disbursed in accordance with the final order or judgment of the court.

4. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 520

AN ACT concerning automobile insurance and revising parts of the statutory law.

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

1. Section 6 of P. L. 1983, c. 65 (C. 17:29A-35) is amended to read as follows:

C. 17:29A-35 Accident surcharges; merit rating plan.

6. a. A merit rating accident surcharge system for private passenger automobiles may be used both in the voluntary market and by the New Jersey Automobile Full Insurance Underwriting Association created pursuant to section 16 of P. L. 1983, c. 65 (C. 17:30E-4). No surcharges for damage to any property shall be imposed on or after the operative date of this act, unless there is an accident within a three year period immediately preceding the effective date of coverage which results in payment by the insurer of at least a \$300.00 property damage claim involving an at fault accident or any payment by the insurer of a bodily injury claim arising out of a collision of a private passenger automobile with a pedestrian. All moneys collected under this subsection shall be retained by the insurer assessing the surcharge. Accident surcharges shall be imposed for a three year period and shall, for each filer, be uniform on a Statewide basis without regard to classification or territory.

b. There is created a New Jersey Merit Rating Plan which shall apply to all drivers and shall include, but not be limited to the following provisions:

(1) (a) Plan surcharges shall be levied, beginning on or after January 1, 1984, by the Division of Motor Vehicles on any driver who has accumulated, within the immediately preceding three year period, beginning on or after February 10, 1983, six or more motor vehicle points as provided in Title 39 of the Revised Statutes, exclusive of any points for convictions for which surcharges are levied under paragraph (2) of this subsection; except that the allowance for a reduction of points in Title 39 of the Revised Statutes shall not apply for the purpose of determining

surcharges under this paragraph. Surcharges shall be levied for each year in which the driver possesses six or more points. Surcharges assessed pursuant to this paragraph shall be not less than \$100.00 for six points, and not less than \$25.00 for each additional point. The commissioner may increase the amount of surcharges as he deems necessary to effectuate the purposes of subsection d. of this section and P. L. 1983, c. 65 (C. 17:29A-33 et al.), and may, pursuant to regulation, permit the deferral of all or part of any surcharges authorized by this subsection until the end of the policy term of an automobile insurance policy with an effective date prior to January 1, 1984, upon presentation of appropriate evidence that an insured has already paid an equivalent surcharge arising from the same motor vehicle violation or conviction.

(b) (Deleted by amendment, P. L. 1984, c. 1.)

(2) Plan surcharges shall be levied for convictions (a) under R. S. 39:4-50 for violations occurring on or after February 10, 1983, and (b) under section 2 of P. L. 1981, c. 512 (C. 39:4-50.4a), or for offenses committed in other jurisdictions of a substantially similar nature to those under R. S. 39:4-50 or section 2 of P. L. 1981, c. 512 (C. 39:4-50.4a), for violations occurring on or after January 26, 1984. Surcharges under this paragraph shall be levied annually for a three year period, and shall be not less than \$1,000.00 per year for each of the first two convictions, and not less than \$1,500.00 per year for the third conviction occurring within a three year period. If a driver is convicted under both R. S. 39:4-50 and section 2 of P. L. 1981, c. 512 (C. 39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses. The commissioner may increase the amount of surcharges as he deems necessary to effectuate the purposes of subsection d. of this section and P. L. 1983, c. 65 (C. 17:29A-33 et al.), and may, pursuant to regulation, permit the deferral of all or any part of these surcharges as provided in paragraph (1) (a) of this subsection.

If, upon written notification from the Division of Motor Vehicles, mailed to the last address of record with the division, a driver fails to pay a surcharge levied under this subsection, the license of the driver shall be suspended forthwith until the surcharge is paid to the Division of Motor Vehicles; except that upon satisfactory showing of indigency, the Division of Motor Vehicles may authorize payment of the surcharge on an installment basis over a period not to exceed 10 months.

For the purposes of this subparagraph, "indigency" shall be defined in rules and regulations promulgated by the Director of the Division of Motor Vehicles.

All moneys collectible under this subsection shall be billed and collected by the Division of Motor Vehicles. Of the moneys collected, 80% shall be remitted to the New Jersey Automobile Full Insurance Underwriting Association, and 20% shall be retained, for administrative expenses, by the Division of Motor Vehicles and turned over to the State Treasury for deposit in a special account to be used by the Division of Motor Vehicles, as may be necessary, to modernize its operations and improve its effectiveness and efficiency in order to discharge its statutory obligations. Any moneys in the special account at the end of a fiscal year shall be transferred to the General Fund for use for general State purposes. Moneys shall be appropriated annually to the special account.

(3) In addition to any other authority provided in P. L. 1983, c. 65 (C. 17:29A-33 et al.), the commissioner, after consultation with the Director of the Division of Motor Vehicles, is specifically authorized (a) to increase the dollar amount of the surcharges for motor vehicle violations or convictions, (b) to impose, in accordance with paragraph (1) (a) of this subsection, surcharges for motor vehicle violations or convictions for which motor vehicle points are not assessed under Title 39 of the Revised Statutes, or (c) to reduce the number of points for which surcharges may be assessed below the level provided in paragraph (1) (a) of this subsection, except that the dollar amount of all surcharges levied under the New Jersey Merit Rating Plan shall be uniform on a Statewide basis for each filer, without regard to classification or territory. Surcharges adopted by the commissioner on or after January 1, 1984 for motor vehicle violations or convictions for which motor vehicle points are not assessable under Title 39 of the Revised Statutes shall not be retroactively applied but shall take effect on the date of the New Jersey Register in which notice of adoption appears or the effective date set forth in that notice, whichever is later.

c. No motor vehicle violation surcharges shall be levied on an automobile insurance policy issued or renewed on or after January 1, 1984, except in accordance with the New Jersey Merit Rating Plan, and all surcharges levied thereunder shall be assessed, collected and distributed in accordance with subsection b. of this section.

d. The dollar amount of all motor vehicle conviction surcharges shall be at least equivalent to the differential between the rates charged to insureds as promulgated by the rating bureau which files rates for the greatest number of insurers in the voluntary private passenger automobile insurance market in this State and the Supplement I rates in use as of December 31, 1982 by the automobile insurance plan established pursuant to P. L. 1970, c. 215 (C. 17:29D-1), and the amount collectible under the motor vehicle conviction surcharge system in use by the automobile insurance plan established pursuant to P. L. 1970, c. 215 (C. 17:29D-1 et seq.) prior to the implementation of this act; except that in the first year of operation of the New Jersey Automobile Full Insurance Underwriting Association, the dollar amount of all motor vehicle surcharges shall be sufficient to eliminate the need for imposition of a residual market equalization charge authorized under section 20 of P. L. 1983, c. 65 (C. 17:30E-8).

e. The Commissioner of Insurance and the Director of the Division of Motor Vehicles, as may be appropriate, shall adopt any rules and regulations necessary or appropriate to effectuate the purposes of this section.

2. (New section) The Division of Motor Vehicles in the Department of Law and Public Safety shall, within 180 days of the effective date of this amendatory and supplementary act, refund any surcharges collected by the division for a. violations and convictions or the accumulation of motor vehicle points that occurred prior to the dates set forth in section 6 of P. L. 1983, c. 65 (C. 17:29A-35), and b. motor vehicle violations and convictions for which motor vehicle points are not assessable under Title 39 of the Revised Statutes that occurred prior to March 19, 1984. No interest shall be payable on any monies refunded by the division within the 180 days. Interest charges shall be payable, at a rate of interest and in a manner to be prescribed by the Commissioner of Insurance, on surcharges refunded after 180 days.

3. Section 20 of P. L. 1983, c. 65 (C. 17:30E-8) is amended to read as follows:

C. 17:30E-8 Sources of income; annual filing; residual market equalization charge.

20. a. The association shall derive income from the following sources for the payment of expenses, losses, and the provision of adequate, actuarially sound reserves for unpaid losses and loss adjustment expenses, including incurred but not reported losses, in

connection with association business: (1) net premiums earned; (2) income generated from any association accident surcharge system permitted or required by law; (3) that percentage of surcharges collected by the Division of Motor Vehicles and deposited with the association pursuant to subsection b. of section 6 of the "New Jersey Automobile Insurance Reform Act of 1982" (P. L. 1983, c. 65; C. 17:29A-35); (4) income collected by members of the association and by the association from the residual market equalization charge or flat charges (also referred to as capitation fees or policy constants, but not including premiums for uninsured motorist or towing coverage, or flattened tax and expense fees implemented pursuant to section 8 of P. L. 1983, c. 65 (C. 17:29A-37)) levied on a per car and per coverage basis; and (5) income from investment of moneys collected pursuant to paragraphs (1), (2), (3) and (4) of this subsection. Residual market equalization charges collected on behalf of the association shall on a monthly basis be certified to by the carrier and shall be transferred to the association in accordance with the plan of operation. No producer commissions or premium taxes shall be paid on, or company expenses or servicing carrier compensation deducted from, the residual market equalization charge. No servicing carrier compensation or commissions shall be paid by the association on violation surcharges deposited by the Division of Motor Vehicles with the association. All premiums received by servicing carriers on behalf of the association shall on a monthly basis be certified to by the carrier and shall be transferred to the association in accordance with the plan of operation. Premiums shall be transferred to the association net of commissions paid, all premium taxes, and servicing carrier compensation, except as otherwise required by law.

All claims and claim expense payments paid on association business shall be disbursed by the servicing carriers or the association through drafts drawn on association funds in accordance with the plan of operation. Servicing carriers, as agents of the association, shall have no individual liability on claims or policies written by the association.

b. At least annually, the board shall file its experience with the commissioner, which experience shall include the projected income, expenses, losses and reserve requirements of the association for the ensuing year, any adjustment in previously established reserves for unpaid losses and loss adjustment expenses necessary to make such reserves adequate and actuarially sound, and the initial filing shall

include the experience of the automobile insurance plan established pursuant to P. L. 1970, c. 215 (C. 17:29D-1). Except in the case of the initial or other filing applicable to the first year of operation of the association, the board shall include in its filing with the commissioner, for his approval, a computation of the residual market equalization charge per insured vehicle to be collected by each member from its voluntary insureds, exclusive of principal operators 65 years of age or older, and by each servicing carrier from association insureds, exclusive of principal operators 65 years of age or older, to offset the anticipated losses of the association.

At the end of the first 12 months of the operation of the association and at least annually thereafter, the board shall also include in its filing with the commissioner a review of the previous year's experience, setting forth the income, losses, and reserve requirements, including any adjustment in previously established reserves for unpaid losses and loss adjustment expenses necessary to make such reserves adequate and actuarially sound, and expenses of the association during the previous year. If a profit is found by the commissioner to have been realized, such amount shall reduce the residual market equalization charge levied on policyholders pursuant to subsection d. of this section. If a loss is found by the commissioner to have occurred, such amount shall increase the charge levied on policyholders pursuant to subsection d. of this section. The filing shall be accompanied by such statistics and other information as the commissioner may deem necessary. The commissioner shall, within 60 days of such filing, approve or disapprove the filing, except that the commissioner may, for good cause, extend by not more than 60 days the period for approving or disapproving the filing. Failure to act within the period allowed for the commissioner's review of the filing shall be deemed approval of the filing, except that the running of the period shall be tolled by a request for additional information by the commissioner or until the association notifies the commissioner that it will not provide such additional information, together with the reason for not supplying the information. Failure to comply with a reasonable request for information may be a ground for disapproving all or part of the filing. If the commissioner disapproves all or part of the filing, he shall state the reasons for such disapproval, and indicate such portion of the filing he approves. Such disapproval shall be subject to review by the Appellate Division of the Superior Court.

c. The residual market equalization charge last approved by the commissioner shall continue to apply while the application for the revised charge is being processed by the commissioner pursuant to this section.

d. The residual market equalization charge per insured vehicle shall be collected following the effective date of such approval, by the insurer from its policyholders, exclusive of principal operators 65 years of age or older, on a uniform net direct car year of liability exposure basis and a net direct car year of physical damage exposure basis. Any insurer or rating organization making a residual market equalization charge pursuant to this subsection shall, 15 days prior to the date of the implementation of the proposed rate adjustment, make an informational filing with the commissioner, documenting compliance with the established method of distributing such residual market equalization charge.

e. Any insurer licensed to transact automobile insurance after the effective date of this act shall become a member of the association upon receiving such license and the determination of any such insurer's participation in the association shall be made as of the date of such membership in the same manner as for all other members of the association.

f. For purposes of this section and any other applicable provision of law, the residual market equalization charge shall not be considered insurance premium unless otherwise specifically provided therein.

4. Section 10 of P. L. 1983, c. 65 (C. 17:29A-39) is amended to read as follows:

C. 17:29A-39 Rules, regulations.

10. The commissioner shall promulgate rules and regulations requiring insurers to offer a range of deductibles up to at least \$2,000.00 for private passenger automobile collision and comprehensive coverages.

5. Section 17 of P. L. 1983, c. 362 (C. 39:6A-23) is amended to read as follows:

C. 39:6A-23 Notice of available coverages and rate credits for deductible, exclusion, setoff and tort limitation options.

17. Notice of available coverages and rate credits for deductible, exclusion, setoff and tort limitation options.

a. No new automobile insurance policy shall be issued on or after the 180th day following the effective date of this 1985 amenda-

tory and supplementary act unless the application for the policy is accompanied by a written notice identifying and containing buyer's guide and coverage selection form. The buyer's guide shall contain a brief description of all available policy coverages and benefits limits, and shall identify which coverages are mandatory and which are optional under State law, as well as all deductible, exclusion, setoff and tort limitation options offered by the insurer.

The buyer's guide shall also contain a statement on the possible coordination of other health benefit coverages with the personal injury protection coverage options, the form and contents of which shall be prescribed by the Commissioner of Insurance.

The coverage selection form shall identify the range of premium rate credit or dollar savings, or both, and shall provide any other information required by the commissioner by regulation.

The applicant shall indicate the options elected on the coverage selection form which shall be signed and returned to the insurer.

b. (Deleted by amendment, P. L. 1985, c. 520.)

c. Any notice of renewal of an automobile insurance policy with an effective date subsequent to July 1, 1984, shall be accompanied by a written notice of all policy coverage information required to be provided under subsection a. of this section.

The Commissioner of Insurance shall, within 45 days following the effective date of this act, promulgate standards for the written notice and buyer's guide required to be provided under this section.

d. Written notices provided by any insurer writing at least 2% of the New Jersey private passenger automobile market, including the New Jersey Automobile Full Insurance Underwriting Association established pursuant to section 16 of P. L. 1983, c. 65 (C. 39:30E-4), shall also contain a statement advising that if the insured or applicant has any questions concerning his automobile insurance policy, including questions as to coverage or premiums, he may contact either his agent or broker, or the company directly, by using a toll free number which shall be set forth in the notice. Written notice shall be given to all insureds of any change in the toll free number.

6. Section 15 of P. L. 1983, c. 65 (C. 17:30E-3) is amended to read as follows:

C. 17:30E-3 Definitions.

15. As used in sections 13 to 34 of this act:

a. "Association" means the New Jersey Automobile Full Insurance Underwriting Association.

b. "Automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired, and includes a private passenger automobile used in the profession, partnership or individual proprietorship of the owner, but excludes a private passenger automobile used as a public or livery conveyance for passengers or rented to others with a driver; a motor vehicle with a pickup body, a delivery sedan or a panel truck or a camper type vehicle used for recreational purposes, owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching; and, solely for the purposes of this act, a motorcycle, as defined in R. S. 39:1-1. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

c. "Automobile insurance" means direct insurance against injury or damage, including the legal liability therefor, arising out of the ownership, operation, maintenance or use of automobiles, including, but not limited to, personal injury protection insurance, bodily injury liability insurance, property damage liability insurance, physical damage insurance and uninsured and underinsured motorist insurance.

d. "Board" or "board of directors" means the board of directors of the association.

e. "Company" or "member" means an insurer member of the association.

f. "Commissioner" means the Commissioner of Insurance.

g. "Director" means a member of the board of directors of the New Jersey Automobile Full Insurance Underwriting Association.

h. "Net direct car years of liability exposure" means direct bodily injury liability car years of exposure, after deducting returns for cancellations, but without adding reinsurance assumed or deducting reinsurance ceded, as determined by the board and approved by the commissioner.

i. "Net direct car years of physical damage exposure" means direct physical damage car years of exposure, after deducting

returns for cancellations, but without adding reinsurance assumed or deducting reinsurance ceded, as determined by the board and approved by the commissioner.

j. "Person" means every natural person.

k. "Plan of operation" means the plan of operation of the association created pursuant to section 18 of this act.

l. "Producer" means an agent or broker licensed to transact the business of automobile insurance in this State.

m. "Qualified applicant" means a person, partnership, profession or individual proprietorship domiciled in New Jersey who or which is an owner of an automobile registered, or to be registered within 60 days of application, and principally garaged in this State, except that a member of the United States military forces, if otherwise eligible for insurance coverage issued by the association, shall be eligible with respect to an automobile if, at the time the application is made, he is either (1) a nonresident who is stationed in this State, whose automobile is registered in another state and garaged in this State; or (2) a resident who is stationed in another state, whose automobile is registered in this State and garaged in another state. No person, partnership, profession or individual proprietorship shall, however, be deemed a qualified applicant, if the principal operator of the automobile to be insured does not hold a driver's license which is valid in this State; or if a regular operator of the automobile other than the principal operator does not hold such a license; or if timely payment of premium is not tendered; or if the principal operator of the automobile does not furnish the information necessary to effect insurance; or if such person, partnership, profession or individual proprietorship rents or leases automobiles to others or automobiles which are used for commercial purposes. "Qualified applicant," in the case of a partnership, profession or individual proprietorship, shall be limited to a partnership, profession or individual proprietorship with its principal place of business in New Jersey, registering not more than four automobiles for use by that partnership, profession or individual proprietorship.

n. "Underinsured motorist coverage" means insurance for damages because of bodily injury and property damage caused by accident and arising out of the ownership, maintenance or use of an underinsured automobile. An automobile is underinsured when the sum of the limits of liability under all bodily injury and property damage liability bonds and insurance policies available to a person

against whom recovery is sought for bodily injury or property damage is, at the time of the accident, less than the applicable limits of liability afforded under the automobile insurance policy held by the person seeking such recovery.

o. "Residual market equalization charge" means the amount which, when added to all other sources of association income, will cause the association to operate on a no profit, no loss basis.

7. Section 14 of P. L. 1944, c. 27 (C. 17:29A-14) is amended to read as follows:

C. 17:29A-14 Alterations in rating system.

14. a. With regard to all property and casualty lines, a filer may, from time to time, alter, supplement, or amend its rates, rating systems, or any part thereof, by filing with the commissioner copies of such alterations, supplements, or amendments, together with a statement of the reason or reasons for such alteration, supplement, or amendment, in a manner and with such information as may be required by the commissioner. If such alteration, supplement, or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment.

b. (Deleted by amendment, P. L. 1984, c. 1.)

c. If an insurer or rating organization files a proposed alteration, supplement or amendment to its rating system, or any part thereof, which would result in a change in rates, the commissioner may, or upon the request of the filer or the Public Advocate shall, certify the matter for a hearing. The hearing shall, at the commissioner's discretion, be conducted by himself or by the Office of Administrative Law, created by P. L. 1978, c. 67 (C. 52:14F-1 et seq.), as a contested case. The following requirements shall apply to the hearing:

(1) The hearing shall commence within 30 days of the date of the request or decision that a hearing is to be held. The hearing shall be held on consecutive working days, except that the commissioner may, for good cause, waive the consecutive working day

requirement. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit his findings and recommendations to the commissioner within 30 days of the close of the hearing. The commissioner may, for good cause, extend the time within which the administrative law judge shall submit his findings and recommendations by not more than 30 days. A decision shall be rendered by the commissioner not later than 60 days, or, if he has granted a 30 day extension, not later than 90 days, from the close of the hearing. A filing shall be deemed to be approved unless rejected or modified by the commissioner within the time period provided herein.

(2) The commissioner, or the Director of the Office of Administrative Law, as appropriate, shall notify all interested parties, including the Public Advocate on behalf of insurance consumers, of the date set for commencement of the hearing, on the date of the filing of the request for a hearing, or within 10 days of the decision that a hearing is to be held.

(3) The insurer or rating organization making a filing on which a hearing is held shall bear the costs of the hearing.

(4) The commissioner may promulgate rules and regulations (a) to establish standards for the submission of proposed filings, amendments, additions, deletions and alterations to the rating system of filers, which may include forms to be submitted by each filer; and (b) making such other provisions as he deems necessary for effective implementation of this act.

d. (Deleted by amendment, P. L. 1984, c. 1.)

e. In order to meet, as closely as possible, the deadlines in section 17 of P. L. 1983, c. 362 (C. 39:6A-23) for provision of notice of available optional automobile insurance coverages pursuant to section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P. L. 1972, c. 70 (C. 39:6A-8), and to implement these coverages, the commissioner may require the use of rates, fixed by him in advance of any hearing, for deductible, exclusion, setoff and tort limitation options, on an interim basis, subject to a hearing and to a provision for subsequent adjustment of the rates, by means of a debit, credit or refund retroactive to the effective date of the interim rates. The public hearing on initial rates applicable to the coverages available under section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P. L. 1972, c. 70 (C. 39:6A-8) shall not be limited by the provisions of subsection c. of this section governing changes in previously approved rates or rating systems.

C. 17:29C-2.1 Dangerous drivers.

8. (New section) No insurer, including the New Jersey Automobile Full Insurance Underwriting Association, shall be required to issue or renew collision or comprehensive insurance coverage, or both, at standard market rates, for an automobile, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2), or as defined in section 15 of P. L. 1983, c. 65 (C. 17:30E-3) in the case of the New Jersey Automobile Full Insurance Underwriting Association, to any person identified as a dangerous driver or as having excessive claims in accordance with standards and guidelines to be adopted by the Commissioner of Insurance. Insurers writing in the voluntary market may, and the New Jersey Full Insurance Underwriting Association shall, issue collision or comprehensive insurance coverage, or both, to a person whose coverage was not issued or not renewed pursuant to this section on the basis of the person's experience. With regard to the identification of dangerous drivers, the standards and guidelines adopted by the commissioner shall take into consideration the total driving record of the driver, as well as any serious driving offenses, as defined by the commissioner, committed within a three year period, including motor vehicle violations resulting in an at fault automobile accident.

The commissioner shall adopt rules and regulations necessary or appropriate to effectuate the purposes of this section.

9. Section 17 of P. L. 1983, c. 65 (C. 17:30E-5) is amended to read as follows:

C. 17:30E-5 Board of directors.

17. a. Within 45 days after the effective date of this act, there shall be appointed a board of directors, and within 30 days after the appointment of the board, the commissioner shall call the first, or organizational, meeting of the association, which shall seat the board of directors. The board shall consist of 17 persons, 14 of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the General Assembly, and one by the President of the Senate; the Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall be an ex officio member of the board. Of the board members appointed by the Governor, eight shall represent member companies, three shall represent producers, and three shall be public members. Members of the board shall be compensated from the moneys of the association for their services, pursuant to standards and procedures set forth in the plan of operation. In appointing the representatives

of the member companies, the Governor shall select two persons from a list of not fewer than three persons nominated by the American Insurance Association, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; two persons from a list of not fewer than three persons nominated by the Alliance of American Insurers, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; two persons from a list of not less than three persons nominated by the National Association of Independent Insurers, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; and two persons from the officers or employees of any insurers which are licensed in this State and are not members or subscribers of any of the above-mentioned organizations. All nominations made by the associations shall include at least one representative of an insurer which does not intend to be a servicing carrier. In appointing the producer representatives, the Governor shall select one person from a list of not fewer than three nominated by the Professional Insurance Agents Association or its successor organization; one person from a list of not fewer than three nominated by the Independent Insurance Agents Association or its successor organization; and one person from a list of not fewer than three nominated by the Insurance Brokers Association or its successor organization. The Governor shall name two surrogates for each director on the board from a list submitted to him by each appointee. The Governor shall, with the advice and consent of the Senate, also appoint three public members to the board. The Speaker of the General Assembly and the President of the Senate shall each appoint a public member. The commissioner or his designated representative shall be entitled to attend and participate in all meetings of the board or any of its committees.

Each trade association and producer association shall have 15 days from the effective date of this act to submit its prescribed list of board of director candidates to the Governor. The Governor shall have 30 days from receipt of each list to select permanent board members from it. If any of the associations named in this section fails to submit the lists from which the Governor is to select

members of the board of directors within time, the Governor shall appoint temporary board members to represent each association that has failed to submit its list. In selecting temporary board members, the Governor shall be guided by the selection criteria set forth herein. Upon subsequent receipt of the list from the association, the Governor shall select permanent board members to replace temporary board members within 30 days. Such replacement shall become effective immediately.

The initial appointment of four insurer directors, one producer-group director, and one public member appointed by the Governor shall be for a term of one year. The initial appointments of all other directors shall be for terms of two years. After the initial appointments all directors shall be appointed for terms of two years and shall serve until their successors are appointed and qualified. All appointive vacancies on the board shall be filled in accordance with the above-mentioned procedures and classifications. Appointments to fill vacancies shall be for the unexpired terms of the directors to be replaced. Except in the case of the Director of the Division of Motor Vehicles, directors may be reimbursed from the moneys of the association for reasonable expenses incurred by them as members.

b. After the board has been appointed, it shall elect from its membership a chairman and shall then meet thereafter at least annually, and as often as the chairman or the plan of operation shall require, or at the request of any five members of the board or the commissioner. All meetings of the board shall be held in New Jersey. Written notice setting forth the meeting agenda shall be provided for each board meeting. Written notice shall be provided, at least five days prior to the date of the meeting, to all directors, the commissioner, and the chairmen of the Assembly Banking and Insurance Committee and the Senate Labor, Industry and Professions Committee, or the successors to those committees. Minutes shall be kept of all meetings. A copy of the minutes shall be sent within five business days following the meeting to the commissioner, and to the chairmen of the two legislative committees. Each member of the board shall be entitled to one vote. The commissioner, or his designated representative, shall have no right to vote. Nine voting members of the board shall constitute a quorum. No votes shall be cast on any matter except at an authorized board meeting. All votes shall be recorded in the minutes of the meeting. No votes shall be cast on any matter not listed as an agenda item

in the written notice for that meeting. No member or his surrogate shall be entitled to vote on any matter if not physically present at the meeting at which the vote is taken. A majority of the voting members shall determine any action of the board. No member may serve as chairman for more than two consecutive years.

c. The board shall have and exercise all powers of the association not reserved to the members by the plan of operation or as otherwise provided in this act.

10. Section 15 of P. L. 1983, c. 362 (C. 39:6A-21) is amended to read as follows:

C. 39:6A-21 The New Jersey Automobile Insurance Risk Exchange: membership, board of directors.

15. The New Jersey Automobile Insurance Risk Exchange: membership, board of directors.

There shall be created, within 45 days of the operative date of this act, an unincorporated association, to operate on a nonprofit-nonloss basis, to be known as the New Jersey Automobile Insurance Risk Exchange, with its headquarters to be located within the State of New Jersey. Every insurer licensed to transact private-passenger automobile insurance in this State shall be a member of the exchange and shall be bound by the rules of the exchange as a condition of the authority to transact insurance business in this State. The New Jersey Automobile Full Insurance Underwriting Association created pursuant to section 16 of P. L. 1983, c. 65 (C. 17:30E-4) shall also be a member of the exchange and shall be bound by the rules of the exchange. Any insurer which ceases to transact automobile insurance business in this State shall remain liable for any amounts due to the exchange for business transacted prior to the effective date of its cessation of business in the State.

The exchange shall adopt a plan of operation which shall become effective upon approval by the Commissioner of Insurance. The business affairs of the exchange shall be governed by a board of directors to be comprised of 12 members. Ten members shall be appointed, from a list of names submitted by the Commissioner of Insurance, by the Governor, with the advice and consent of the Senate, of whom two shall represent the Alliance of American Insurers, or its successor organization; two shall represent the National Association of Independent Insurers, or its successor organization; two shall represent the American Insurance Associa-

tion, or its successor organization; two shall represent the independent companies; one shall be an insurer representative on the board of directors of the New Jersey Automobile Full Insurance Underwriting Association; and one shall be a public member. The Speaker of the General Assembly and the President of the Senate shall each appoint one public member. The board shall elect a chairman who shall be a representative of an insurer domiciled in New Jersey. No insurer shall represent more than one organization on the board of directors of the exchange.

All appointments shall be made for two year terms, except that of the directors first appointed, five of the insurer representatives and one of the public members shall be appointed for one year terms. Vacancies on the board of directors of the exchange shall be filled for the remainders of the terms in the same manner as the original appointments. Public members shall be compensated in an amount to be determined by the commissioner, and shall be reimbursed for necessary expenses actually incurred in the performance of their duties. All expenses incurred by the board shall be payable from moneys collected by the exchange.

The term of office of any person appointed to the board of directors prior to the effective date of this amendatory and supplementary act shall be deemed to begin on that date.

11. Section 16 of P. L. 1983, c. 362 (C. 39:6A-22) is amended to read as follows:

C. 39:6A-22 Powers of exchange.

16. Powers of exchange. a. The exchange shall be empowered to raise sufficient moneys (1) to pay its operating expenses, and (2) to compensate members of the exchange for claims paid for noneconomic loss, and associated claim adjustment expenses, which would not have been incurred had the tort limitation option provided in subsection b. of section 8 of P. L. 1972, c. 70 (C. 39:6A-8) been elected by the injured party filing the claim for noneconomic loss.

b. In order to enable the exchange to meet its obligations under subsection a. of this section, every member insurer or servicing carrier of the New Jersey Automobile Full Insurance Underwriting Association shall forward on a monthly basis, within 15 days of the close of the member's accounting month, a charge, to be known as the AIRE charge, in an amount and manner to be prescribed by the board of directors.

AIRE charge amounts required to be paid to the exchange in accordance with this subsection shall, in the case of those amounts determined by the board of directors to be applicable during the period from July 1, 1984 to the effective date of this amendatory and supplementary act, be paid to the exchange within 60 days of that date.

A 10% per annum penalty charge shall be assessed by the exchange on any overdue AIRE charges.

c. The board of directors shall establish guidelines by which members or servicing carriers and the exchange may verify the tort limitation options elected by claimants.

d. Moneys collected by or otherwise available to the exchange shall be invested as hereinafter provided in section 12 of P. L. 1985, c. 520 (C. 39:6A-22.1).

e. The exchange shall have such powers as may be necessary or appropriate to effectuate the purposes of the exchange.

C. 39:6A-22.1 Preference to New Jersey investments.

12. (New section) Moneys collected by or available to the exchange shall be invested by the board of directors in accordance with the liabilities of the fund and the statutory limitations on insurer investments in Title 17 of the Revised Statutes; except that the board shall invest moneys of the exchange in New Jersey or in equity securities or debt obligations of businesses incorporated in New Jersey for operations in the State, if at least equivalent to any alternative investment opportunities outside New Jersey, with respect to risk exposure, rates of return and other investment objectives established by the board.

The exchange shall at least annually file a report with the Commissioner of Insurance and the chairmen of the Assembly Banking and Insurance Committee and the Senate Labor, Industry and Professions Committee, or the successors of those committees, setting forth, among other things, the income, claims and investment experience of the exchange. The commissioner shall prescribe, by regulation, the contents and form of the report.

13. Section 18 of P. L. 1983, c. 362 (C. 17:29A-15.1) is amended to read as follows:

C. 17:29A-15.1 Premium credits.

18. Premium credits shall be provided for each deductible, exclusion and setoff on personal injury protection coverage offered in accordance with section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3), and

for the tort limitation options on bodily injury liability coverage offered in accordance with section 8 of P. L. 1972, c. 70 (C. 39:6A-8). All premium credits to which this section applies shall be calculated and represented to the insured as a percentage of the applicable premium for each coverage option, and the percentage for each coverage option shall be uniform by filer on a State-wide basis.

The premium charged for each coverage shall be clearly set forth in any policy or endorsement provided the insured.

The percentage rate of commission or rate of other compensation payable by an automobile insurer to an agent or broker shall not vary by reason of the selection or nonselection of any option provided in section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P. L. 1972, c. 70 (C. 39:6A-8).

C. 39:6A-4.5 No medical coverage.

14. (New section) Any person who, at the time of an automobile accident resulting in injuries to that person, is required but fails to maintain medical expense benefits coverage mandated by section 4 of P. L. 1972, c. 70 (C. 39:6A-4) or section 1 of P. L., c. (C.) (now pending before the Legislature as Assembly Bill No. 2883 of 1984) shall:

a. For the purpose of filing an action for recovery of noneconomic loss, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2), be subject to the tort option specified in subsection b. of section 8 of P. L. 1972, c. 70 (C. 39:6A-8);

b. In the event of a recovery for noneconomic loss pursuant to an arbitration award, judicial judgment or voluntary settlement, be subject to the setoff option as set forth in subsection c. of section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3), except that the amount of the setoff shall be payable to the New Jersey Automobile Insurance Risk Exchange established pursuant to section 15 of P. L. 1983, c. 362 (C. 39:6A-21).

15. Section 8 of P. L. 1972, c. 70 (C. 39:6A-8) is amended to read as follows:

C. 39:6A-8 Tort exemption; limitation on the right to noneconomic loss.

8. Tort exemption; limitation on the right to noneconomic loss.

One of the following two tort options shall be elected, in accordance with section 14.1 of P. L. 1983, c. 362 (C. 39:6A-8.1), by any named insured required to maintain personal injury protec-

tion coverage pursuant to section 4 of P. L. 1972, c. 70 (C. 39:6A-4):

a. Every owner, registrant, operator or occupant of an automobile to which section 4, personal injury protection coverage, regardless of fault, applies, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by this act, or is a person who has a right to receive benefits under section 4 of this act as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State, if the bodily injury is confined solely to the soft tissue of the body and the medical expenses incurred or to be incurred by such injured person or the equivalent value thereof for the reasonable and necessary treatment of such bodily injury is less than \$200.00, exclusive of hospital expenses, X-rays and other diagnostic medical expenses. There shall be no exemption from tort liability if the injured party has sustained death, permanent disability, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member in whole or in part, regardless of the right of any person to receive benefits under section 4 of this act. Bodily injury confined solely to the soft tissue, for the purpose of this section, means injury in the form of sprains, strains, contusions, lacerations, bruises, hematomas, cuts, abrasions, scrapes, scratches, and tears confined to the muscles, tendons, ligaments, cartilage, nerves, fibers, veins, arteries and skin of the human body; or

b. As an alternative to the basic tort option specified in subsection a. of this section, every owner, registrant, operator, or occupant of an automobile to which section 4 of P. L. 1972, c. 70 (C. 39:6A-4) applies, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by P. L. 1972, c. 70 (C. 39:6A-1 et seq.) or is a person who has a right to receive benefits under section 4 of that act (C. 39:6A-4), as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State, if the medical expenses incurred or to be incurred by that injured person, or the equivalent value thereof, for the reasonable and necessary treatment of the bodily injury, is less than

\$1,500.00, which amount shall be adjusted annually on January 1 of each year following the operative date of this act by the Commissioner of Insurance to reflect increases or decreases in the national Consumer Price Index for the professional services component of medical care services, all urban consumers, U. S. city average, and which amount shall be exclusive of hospital expenses, X-rays and other diagnostic medical expenses. The adjusted rate shall apply to any claim for noneconomic loss arising from any automobile accident occurring on or after the adjustment date. There shall be no exemption from tort liability if the injured party has sustained death, permanent disability, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member in whole or in part, regardless of the right of any person to receive benefits under section 4 of P. L. 1972, c. 70 (C. 39:6A-4).

The tort option provisions of subsection a. of this section shall also apply to the right to recover for noneconomic loss of any person eligible for benefits pursuant to section 4 of P. L. 1972, c. 70 (C. 39:6A-4) but who is not required to maintain personal injury protection coverage and is not an immediate family member, as defined in section 14.1 of P. L. 1983, c. 362 (C. 39:6A-8.1), under an automobile insurance policy.

The tort option provisions of subsection b. of this section shall also apply to any person subject to section 14 of P. L. 1985, c. 520 (C. 39:6A-4.5).

The tort option provisions of subsection b. of this section shall remain inoperative until July 1, 1984, and shall apply to accidents occurring on or after that date.

If any provision of subsection b. of this section shall be deemed to be unconstitutional, the provisions of the entire subsection shall be deemed null and void, and without further effect, but the decision of the court shall not affect the validity of any other provision of this act.

16. Section 10 of P. L. 1972, c. 70 (C. 39:6A-10) is amended to read as follows:

C. 39:6A-10 Additional personal injury protection coverage.

10. Additional personal injury protection coverage. Insurers shall make available to the named insured covered under section 4, and, at his option, to resident relatives in the household of the named insured, suitable additional first party coverage for income

continuation benefits, essential services benefits, death benefits and funeral expense benefits, but the income continuation and essential services benefits shall cease upon the death of the claimant, and shall not operate to increase the amount of any death benefits payable under section 4 and such additional first party coverage shall be payable only to the extent that the claimant establishes that the amount of loss sustained exceeds the coverage specified in section 4. The additional coverage shall be offered by the insurer at least annually on a form prescribed by the Commissioner of Insurance, which shall be attached to or accompany all applications, initial policies and renewal policies or renewal notices. Income continuation in excess of that provided for in section 4 must be provided as an option by insurers for disabilities, as long as the disability persists, up to an income level of \$35,000.00 per year, provided that a. the excess between \$5,200.00 and the amount of coverage contracted for shall be written on the basis of 75% of said difference, and b. regardless of the duration of the disability, the benefits payable shall not exceed the total maximum amount of income continuation benefits contracted for. Death benefits provided pursuant to this section shall be payable without regard to the period of time elapsing between the date of the accident and the date of death, if death occurs within two years of the accident and results from bodily injury from that accident to which coverage under this section applies. The Commissioner of Insurance is hereby authorized and empowered to establish, by rule or regulation, the amounts and terms of income continuation insurance to be provided pursuant to this section.

17. Section 20 of P. L. 1983, c. 362 (C. 39:6A-9.1) is amended to read as follows:

C. 39:6A-9.1 Recovery from tortfeasor.

20. An insurer paying personal injury protection benefits in accordance with section 4 or section 10 of P. L. 1972, c. 70 (C. 39:6A-4 or C. 39:6A-10), as a result of an accident occurring within this State, shall, within two years of the filing of the claim, have the right to recover the amount of payments from any tortfeasor who was not, at the time of the accident, required to maintain personal injury protection or medical expense benefits coverage, other than for pedestrians, under the laws of this State, including personal injury protection coverage required to be provided in accordance with section 18 of P. L. 1985, c. 520 (C. 17:28-1.4), or although required did not maintain personal injury protection or medical ex-

pense benefits coverage at the time of the accident. In the case of an accident occurring in this State involving an insured tortfeasor, the determination as to whether an insurer is legally entitled to recover the amount of payments and the amount of recovery, including the costs of processing benefit claims and enforcing rights granted under this section, shall be made against the insurer of the tortfeasor, and shall be by agreement of the involved insurers or, upon failing to agree, by arbitration.

C. 17:28-1.4 Mandated coverage.

18. (New section) Any insurer authorized to transact or transacting automobile or motor vehicle insurance business in this State, or controlling or controlled by, or under common control by, or with, an insurer authorized to transact or transacting insurance business in this State, which sells a policy providing automobile or motor vehicle liability insurance coverage, or any similar coverage, in any other state or in any province of Canada, shall include in each policy coverage to satisfy at least the liability insurance requirements of section 1 of P. L. 1972, c. 197 (C. 39:6B-1) or section 3 of P. L. 1972, c. 70 (C. 39:6A-2), the uninsured motorist insurance requirements of subsection a. of section 2 of P. L. 1968, c. 385 (C. 17:28-1.1), and personal injury protection benefits coverage pursuant to section 4 of P. L. 1972, c. 70 (C. 39:6A-4) or of section 19 of P. L. 1983, c. 362 (C. 17:28-1.3), whenever the automobile or motor vehicle insured under the policy is used or operated in this State.

Any liability insurance policy subject to this section shall be construed as providing the coverage required herein, and any named insured, and any immediate family member as defined in section 14.1 of P. L. 1983, c. 362 (C. 39:6A-8.1), under that policy, shall be subject to the tort option specified in subsection b. of section 8 of P. L. 1972, c. 70 (C. 39:6A-8).

Each insurer authorized to transact or transacting automobile or motor vehicle insurance business in this State and subject to the provisions of this section shall, within 30 days of the effective date of this amendatory and supplementary act, file and maintain with the Department of Insurance written certification of compliance with the provisions of this section.

“Automobile” means an automobile as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2).

19. Section 19 of P. L. 1983, c. 362 (C. 17:28-1.3) is amended to read as follows:

C. 17:28-1.3 Coverage for pedestrians.

19. Every liability insurance policy issued in this State on a motor vehicle, exclusive of an automobile as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2), but including a motorcycle, or on a motorized bicycle, insuring against loss resulting from liability imposed by law for bodily injury, death, and property damage sustained by any person arising out of the ownership, operation, maintenance, or use of a motor vehicle or motorized bicycle shall provide personal injury protection coverage benefits, in accordance with section 4 of P. L. 1972, c. 70 (C. 39:6A-4), to pedestrians who sustain bodily injury in the State caused by the named insured's motor vehicle or motorized bicycle or by being struck by an object propelled by or from the motor vehicle or motorized bicycle.

20. This act shall take effect immediately, except that the provisions of sections 5, 8, 16, 18, and 19 shall remain inoperative for 90 days following enactment or until adoption of appropriate regulations by the Commissioner of Insurance, or the Director of the Division of Motor Vehicles, whichever shall occur first.

Approved January 21, 1986.

CHAPTER 521

AN ACT concerning banking institutions, amending P. L. 1985, c. 58 and repealing P. L. 1985, c. 39.

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

1. Section 6 of P. L. 1985, c. 58 is amended to read as follows:
6. This act shall take effect immediately and shall expire on January 1, 1987.

Repealer.

2. P. L. 1985, c. 39 is repealed.
3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 522

AN ACT concerning appropriations by municipalities and supplementing P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

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

C. 40A:4-45.29 Budget "cap" exemption for insurance premiums.

1. a. Notwithstanding the provisions of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) to the contrary, a municipality which incurs increased costs due to an increase in the premium of any municipal insurance policy may expend funds as may be necessary to defer those increased costs as an exception to the spending limitations imposed by P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) in the year in which those increased costs are first incurred.

b. Notwithstanding the provisions of section 2 of P. L. 1976, c. 68 (C. 40A:4-45.2) to the contrary, in the year following the year in which an exception is taken pursuant to subsection a. of this section, the amount excepted in that year for increased insurance costs shall be included by the municipality as part of its final appropriations for the previous year for the purpose of calculating its permissible increase in final appropriations for the current budget year.

2. This act shall take effect immediately and shall apply to the 1986 local budget year and thereafter.

Approved January 21, 1986.

CHAPTER 523

AN ACT to amend "An act concerning the application, removal, and encapsulation of asbestos, and making an appropriation," approved October 31, 1984 (P. L. 1984, c. 173).

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

1. Section 8 of P. L. 1984, c. 173 (C. 34:5A-39) is amended to read as follows:

C. 34:5A-39 Asbestos removal regulation.

8. Not later than six months after the effective date of this act, the Commissioners of Labor and Health jointly shall, in consultation with the Commissioner of Environmental Protection, adopt all standards and regulations which they deem necessary for the proper administration and enforcement of this act. These standards and regulations shall include, but shall not be limited to, protective equipment specifications; application, enclosure, removal, and encapsulation procedures; administrative penalties; waste disposal; self-monitoring; cleanup; health checkup; license and permit issuance and revocation; fee charges; experience necessary for license or permit qualification; general subject matter of qualifying examinations; and continuing education. License and permit qualification standards shall include provision for experienced asbestos workers to apply for and receive a permit without examination.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 524

AN ACT concerning the Personal Attendant demonstration program, and amending P. L. 1985, c. 307.

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

1. Section 2 of P. L. 1985, c. 307 (C. 30:4G-2) is amended to read as follows:

C. 30:4G-2 Definitions.

2. For the purposes of this act:

a. "Chronic physical disability" means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance in order to maintain the person's independence and health.

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

c. "Department" means the State Department of Human Services.

d. "Personal attendant" means a person who meets the qualifications regarding training, equivalent work experience or certification in the home health field, established by the commissioner and who provides personal attendant services to an eligible person.

e. "Personal attendant services" means health and chore related tasks performed by a personal attendant and, if necessary, under the supervision of a registered professional nurse. Personal attendant services include, but are not limited to, assistance in: essential daily activities such as bathing, dressing and meal preparation; assistance with mobility, laundry and shopping; and driving or transportation.

2. Section 3 of P. L. 1985, c. 307 (C. 30:4G-3) is amended to read as follows:

C. 30:4G-3 Personal attendant demonstration program.

3. The Commissioner of Human Services shall establish a personal attendant demonstration program in the Department of Human Services to be administered by agencies designated by the commissioner. The program shall provide adults with chronic physical disabilities with regular help in carrying out routine nonmedical tasks that are directly related to maintaining their health and independence. The program will lessen the need for institutional care and thereby enable these persons to remain in their homes and communities and to be employed or to receive training or education geared toward employment.

3. Section 4 of P. L. 1985, c. 307 (C. 30:4G-4) is amended to read as follows:

C. 30:4G-4 Eligibility.

4. A person with a chronic physical disability who is between 18 and 65 years of age and is a resident of this State is eligible for the personal attendant program if:

a. The person is in need of personal attendant services pursuant to a written plan of personal attendant services prepared by a social worker or a registered professional nurse in collaboration with the person who shall receive the services;

b. A relative or other informal care-giver is not available or not appropriate to provide the needed services;

c. The person lives in a private home or apartment, rooming or boarding house or residential health care facility, and the personal attendant services the person shall receive are supplemental to and not duplicative of the services provided pursuant to the li-

censure requirements, if any, of the facility in which the person lives;

d. The attending physician has confirmed in writing that the person is self-directing and requires no assistance in the coordination of therapeutic regimes, and that the personal attendant services will be adequate and appropriate to meet his needs; and

e. The person requires not less than 10 hours or not more than 40 hours of personal attendant services per week.

4. Section 5 of P. L. 1985, c. 307 (C. 30:4G-5) is amended to read as follows:

C. 30:4G-5 Implementation by counties.

5. a. The personal attendant demonstration program shall be implemented in those counties which have established county offices for the handicapped as of January 1, 1985, which counties are:

Atlantic	Middlesex
Bergen	Monmouth
Cumberland	Union
Essex	Ocean and
Mercer	Passaic

b. Each county office for the handicapped or other agency designated by the commissioner is authorized to establish and maintain a personal attendant services caseload of chronically physically disabled persons, which, in total, shall not exceed 200 for those counties, pursuant to this act.

5. Section 6 of P. L. 1985, c. 307 (C. 30:4G-6) is amended to read as follows:

C. 30:4G-6 Evaluation, services plan.

6. a. Within 30 days after a person has applied for services under the personal attendant program, a member of the staff of the county office for the handicapped or other agency designated by the commissioner in the county in which the applicant resides shall perform a social evaluation of the applicant to determine if the applicant meets the eligibility criteria pursuant to section 4 of this act, and a financial evaluation to determine ability to pay for personal attendant services in accordance with section 8 of P. L. 1985, c. 307 (C. 30:4G-8). The county office for the handicapped or other agency designated by the commissioner shall provide the applicant with written notification about the findings of the evaluation.

b. If the applicant is eligible, a social worker or registered professional nurse, who is designated by the director of the county office for the handicapped or other agency designated by the commissioner, shall prepare a personal attendant services plan designed to meet the applicant's specific social, health and personal care needs, using the evaluation as a basis for the plan. The social worker or registered professional nurse shall prepare the plan with the participation of the applicant.

c. The plan shall include a list of personal attendant services that shall be provided pursuant to the plan; an estimate of the frequency and duration of the services; an estimate of the total cost of the plan; and a statement of the percentage or amount of money an eligible person or an eligible person's spouse is required to contribute toward the cost of services provided under the plan, pursuant to section 8 of this act. The social worker or registered professional nurse shall revise the plan as frequently as necessary, but shall perform a comprehensive reassessment of the eligible person annually.

d. The plan shall not be implemented until the eligible person approves the plan in writing.

e. If a dispute arises between the eligible person and the county office for the handicapped or other agency designated by the commissioner with regard to eligibility for services or the personal attendant services plan, the applicant may request a hearing that shall be conducted pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

f. The evaluation and services plan shall be completed on forms prescribed by the commissioner.

6. Section 8 of P. L. 1985, c. 307 (C. 30:4G-8) is amended to read as follows:

C. 30:4G-8 Sliding fee scale.

8. a. The commissioner shall establish a sliding fee scale based on the eligible person's or the eligible person's spouse's ability to pay for personal attendant services; except that no eligible person or eligible person's spouse shall have to pay more than 75% of the cost of the personal attendant services provided pursuant to this act.

b. The sliding fee scale shall apply only to those eligible persons and their spouses whose annual gross income exceeds the State's current applicable income eligibility level for social ser-

vices established pursuant to the Social Services Block Grant Act, Pub. L. 97-35 (42 U. S. C. § 1397 et seq.).

c. If an eligible person's personal attendant services costs are covered in whole or in part by any other State or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the personal attendant program shall be the secondary payer.

d. The eligible person receiving services shall sign weekly vouchers attesting to the hours of services rendered. The personal attendant shall then be paid by the county office for the handicapped or other agency designated by the commissioner.

7. Section 10 of P. L. 1985, c. 307 (C. 30:4G-10) is amended to read as follows:

C. 30:4G-10 Advisory council.

10. a. There is established in the department an Advisory Council on Personal Attendant Services which consists of 19 members as follows: the Commissioner of Health, the Director of the Division of Youth and Family Services, the Director of the Division of Developmental Disabilities, the Director of the Division of Medical Assistance and Health Services and the Director of the Division of Veterans' Programs and Special Services in the Department of Human Services, and the Director of the Division of Vocational Rehabilitation Services in the Department of Labor, or their designees, who shall serve ex officio, and 13 members appointed by the commissioner who are residents of this State, one of whom is a member of the New Jersey Association of County Representatives of Disabled Persons, four of whom represent providers of personal attendant services, five of whom represent consumers of personal attendant services and three of whom represent advocacy groups or agencies for the physically disabled.

A vacancy in the membership of the council shall be filled in the same manner as the original appointment.

The members of the council shall serve without compensation, but the department shall reimburse the members for the reasonable expenses incurred in the performance of their duties.

b. The council shall hold an organizational meeting within 30 days after the appointment of its members. The members of the council shall elect from among them a chairman, who shall be the chief executive officer of the council and the members shall elect a secretary, who need not be a member of the council.

c. The council shall:

(1) Advise the commissioner on matters pertaining to personal attendant services and the development of the personal attendant program, upon the request of the commissioner;

(2) Review the rules and regulations promulgated for the implementation of the personal attendant program and make recommendations to the commissioner, as appropriate;

(3) Evaluate the effectiveness of the personal attendant program in achieving the purposes of this act; and

(4) Assess the Statewide need for personal attendant services and the projected cost for providing these services Statewide.

8. Section 14 of P. L. 1985, c. 307 is amended to read as follows:

14. This act shall take effect on the 90th day following enactment and shall expire two years thereafter.

9. This act shall take effect immediately and expire two years from the effective date.

Approved January 21, 1986.

CHAPTER 525

AN ACT concerning the death benefits of certain members of the Police and Firemen's Retirement System and amending 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) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator,

or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to his transfer to a position within the department not otherwise covered by the retirement system or any officer or employee serving in the title of assistant superintendent I, assistant superintendent II, assistant superintendent III, superintendent I, superintendent II, superintendent III or administrator, prison complex within the Department of Corrections who, prior to appointment to any of those titles, was a member of the retirement system. It shall also mean any permanent, active and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, highway patrol officer, sergeant highway patrol bureau, lieutenant highway patrol bureau, captain highway patrol bureau, assistant chief highway patrol bureau and chief highway patrol bureau in the Division of State Police, alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, inspector recruit alcoholic beverage control, inspector alcoholic beverage control, senior inspector alcoholic beverage control, principal inspector alcoholic beverage control, and supervising inspector alcoholic beverage control in the Division of State Police, conservation officer, assistant district conservation officer, district conservation officer, chief conservation officer and chief, bureau of law enforcement in the Division of Fish, Game, and Wildlife, ranger and chief ranger in the Bureau of Parks, field section fire warden, chief, Bureau of Forest Fire Management, State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire), supervising forest fire warden, division forest fire warden, assistant division forest fire warden, and section forest fire warden in the Bureau of Forest Fire Management, Department of Environmental Protection, marine police officer, senior marine police officer, and principal marine police officer in the Division of State Police, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law

and Public Safety, institution fire chief and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, investigator, senior investigator, principal investigator, assistant chief investigator, chief investigator and director of custody operations I, II, III in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator, supervisor of electronics and investigations, and county investigator in the offices of the county prosecutors, county sheriff, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the offices of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, and supervising juvenile officer, chief investigator, assistant chief investigator, senior investigator and investigator in a county welfare agency in a county of the first class, if the county adopts an ordinance or resolution, as appropriate, pursuant to subsection a. of section 2 of P. L. 1985, c. 221 (C. 43:16A-62.3), police officer capitol police and senior police officer capitol police in the Division of State Police, patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14-21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(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 preced-

ing 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.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 526

AN ACT concerning connection charges by certain county and municipal authorities and amending P. L. 1946, c. 138 and P. L. 1957, c. 183.

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

1. Section 8 of P. L. 1946, c. 138 (C. 40:14A-8) is amended to read as follows:

C. 40:14A-8 Service charges.

8. (a) Every sewerage authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such service charges to the sewerage authority at the time when the place where such service charges are due and payable.

(b) Rents, rates, fees and charges, which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In addition to any such periodic service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, and the amount thereof shall

not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

(1) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by the sewerage authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

(2) Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

(3) The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage for the average single family residence in the authority's district to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in subsection (c) of this section. The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid periodic service charges shall meet the requirements of subsection (c) hereof.

(c) The sewerage authority shall prescribe and from time to time when necessary revise a schedule of service charges, which shall comply with the terms of any contract of the sewerage authority and in any event shall be such that the revenues of the sewerage authority will at all times be adequate to pay all expenses

of operation and maintenance of the sewerage system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Said schedule shall thus be prescribed and from time to time revised by the sewerage authority after public hearing thereon which shall be held by the sewerage authority at least 20 days after notice of the proposed adjustment is mailed to the clerk of each municipality serviced by the authority and publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The sewerage authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The sewerage authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the sewerage authority and shall at all reasonable times be open to public inspection.

(d) Any county sewerage authority may establish sewerage regions in portions of the district. Rents, rates, fees and charges which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable, be uniform throughout the district for the same type, class and amount of use or service of the sewerage systems and shall meet all other requirements of subsection (b) hereof.

2. Section 21 of P. L. 1957, c. 183 (C. 40:14B-21) is amended to read as follows:

C. 40:14B-21 Water service charges.

21. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect

connection with, or the use, products or services of, the water system, or for sale of water or water services, facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water services, facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or services of the water system, and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same, including the cost of installation of necessary physical properties.

In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest

on bonds, and the amount of any loans and interest thereon, paid by a municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of water for the connector shall be divided by the average daily flow of water to the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P. L. 1957, c. 183 (C. 40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid water service charges shall meet the requirements of section 23 of P. L. 1957, c. 183 (C. 40:14B-23). The foregoing notwithstanding, no municipal authority shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B-1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any municipal authority from charging for the actual cost of water main connection.

3. Section 22 of P. L. 1957, c. 183 (C. 40:14B-22) is amended to read as follows:

C. 40:14B-22 Sewerage service charges.

22. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "sewerage service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such sewerage service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the sewerage system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such sewerage service charges to the municipal authority at the time when and place where such sewerage service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal of the same, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition, and, as to service outside the district, the cost of installation of necessary physical properties.

In addition to any such sewerage service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be

imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment towards the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and the interest thereon, paid by the municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by a municipal authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage from the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P. L. 1957, c. 183 (C. 40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system.

The combination of such connection fee or tapping fee and the aforesaid sewerage service charges shall meet the requirements of section 23.

4. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 527

AN ACT concerning the provisions of food to school pupils and amending N. J. S. 18A:18A-5, N. J. S. 18A:33-3 and P. L. 1981, c. 186.

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

1. N. J. S. 18A:18A-5 is amended to read as follows:

Exceptions to requirement for advertising.

18A:18A-5. Exceptions to requirement for advertising. Any purchase, contract or agreement of the character described in N. J. S. 18A:18A-4 may be made, negotiated or awarded by the board of education by resolution at a public meeting without public advertising for bids and bidding therefor if

a. The subject matter thereof consists of:

- (1) Professional services;
- (2) Extraordinary unspecifiable services which cannot reasonably be described by written specifications, which exception as to extraordinary unspecifiable services shall be construed narrowly in favor of open competitive bidding where possible and the State Board of Education is authorized to establish rules and regulations limiting its use in accordance with the intention herein expressed; and the board of education shall in each instance state supporting reasons for its action in the resolution awarding the contract for extraordinary unspecifiable services;
- (3) The doing of any work by employees of the contracting unit;
- (4) The printing of all legal notices; and legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;
- (5) Textbooks, copyrighted materials, kindergarten supplies, and student produced publications and services incidental thereto;
- (6) Food services and supplies, including food supplies for home economics classes, when purchased pursuant to rules and regulations of the State board and in accordance with the provisions of N. J. S. 18A:18A-6;
- (7) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board

of Public Utilities, in accordance with the tariffs and schedules of charges made, charged and exacted, filed with said board;

(8) The printing of bonds and documents necessary to the issuance and sale thereof by a board of education;

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services;

(10) Insurance, including the purchase of insurance coverage and consultant services;

(11) Publishing of legal notices in newspapers as required by law;

(12) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character;

(13) Election expenses, including advertising expenses incidental thereto;

(14) Electronic data processing service obtained from another board of education;

(15) Driver education courses provided by licensed driver education schools;

(16) Performance of work or services or the furnishing of materials, supplies or equipment for the purpose of conserving energy in buildings owned by any local board of education, the entire price of which shall be established as a percentage of the resultant savings in energy costs.

b. It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority or any other state or subdivision thereof.

c. The board of education has advertised for bids pursuant to N. J. S. 18A:18A-4 on two occasions and has received no bids in response to its advertisement and, after reasonable inquiry, it is determined that no board, body, officer, agency or authority of the United States, or of the State of New Jersey or of any county or municipality in which the board of education is located is willing and able to perform any work or furnish or hire any materials or supplies in conformity with the specifications of the board of education. Any such contract or agreement entered into pursuant to this subsection c. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of

the full membership of the board of education at a meeting thereof authorizing such a contract or agreement. Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of the competitive bidding pursuant to N. J. S. 18A:18A-4 shall be stated in the resolution awarding the contract.

d. The board of education has advertised for bids pursuant to N. J. S. 18A:18A-4 on two occasions and has rejected such bids on each occasion because the board of education has determined that they are not reasonable as to price on the basis of cost estimates prepared for the board of education prior to the advertising therefor or have not been independently arrived at in open competition, but no such contract or agreement may be entered into after such rejection of bids, unless:

(1) Notification of the intention to negotiate and a reasonable opportunity to negotiate shall have been given by the board of education to each responsible bidder;

(2) The negotiated price is lower than the lowest rejected bid price of a responsible bidder who bid thereon and is the lowest negotiated price offered by any responsible supplier and is a reasonable price for such work, materials, supplies or services;

(3) Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of competitive bidding pursuant to N. J. S. 18A:18A-4 shall be stated in the resolution awarding the contract; and

(4) The negotiated price is lower than the price of the same or equivalent materials or supplies available from the State, county or municipality in which the board of education is located.

Whenever a board of education shall determine that a bid was not arrived at independently in open competition pursuant to this subsection d. of N. J. S. 18A:18A-5, it shall thereupon notify the county prosecutor of the county in which the board of education is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

e. The board of education has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to N. J. S. 18A:18A-10,

and the lowest responsible quotation is at least 10% less than the price the board would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract.

Any such contract or agreement entered into pursuant to subsection d. or subsection e. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement.

2. N. J. S. 18A:33-3 is amended to read as follows:

Food service bidding exemption.

18A:33-3. A board of education of any district may, itself or under contract, install, equip, supply and operate cafeterias or other agencies for dispensing food to public school pupils without profit to the district and may purchase food services and supplies therefor subject to the provisions of N. J. S. 18A:18A-6 and pursuant to rules and regulations of the State board, without advertisement for bids.

3. Section 1 of P. L. 1981, c. 186 (C. 18A:18A-42.1) is amended to read as follows:

C. 18A:18A-42.1 Contract renewal permitted.

1. Every contract or agreement for the services of a food service management company heretofore or hereafter entered into between a board of education and a food service management company which meets federal standards and procurement requirements pursuant to 7 C.F.R. § 210.8a and 7 C.F.R. § 210.19a may be renewed yearly for not more than two additional years upon a finding by the board of education that the services are being performed in an effective and efficient manner; however, if a board of education elects to renew an existing contract with a food service management company, the terms and conditions of the existing contract shall remain substantially unchanged and any increase in the contract cost of the food or services, or both, shall be no greater than 20% over the additional two-year period.

4. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 528

AN ACT concerning the authority, operations and investment of banks, savings banks, bank holding companies and bank subsidiary corporations, amending P. L. 1959, c. 91, P. L. 1964, c. 202, P. L. 1969, c. 118 and P. L. 1979, c. 226 and amending and supplementing P. L. 1948, c. 67.

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

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

C. 17:9A-1 Definitions.

1. Definitions.

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

(1) "Bank" shall include the following:

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

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

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

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

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

(2) "Banking institution" shall mean a bank, savings bank, and a national banking association having its principal office in this State;

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

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

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

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

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

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

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

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

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

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

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

(12) "Qualified bank" shall mean:

(a) A bank which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 28;

(b) A savings bank which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 28; and

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

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

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

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

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

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

(e) Every corporation hereafter organized pursuant to article 3 of this act;

(14) "Branch office" of a bank or savings bank shall mean an office, unit, station, facility, terminal, space or receptacle at a fixed location other than a principal office, however designated, at which any business that may be conducted in a principal office of a bank or savings bank may be transacted. "Branch office" includes full branch offices, minibranch offices and communication terminal branch offices;

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

(16) "Minibranch office" means a branch office of a bank or savings bank which does not occupy more than 500 square feet of floor space and which does not contain more than four teller stations, manned by employees of the bank or savings bank;

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

(18) "Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership association, or any other group of individuals however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including, but not limited to, shares of stock in a cooperative corporation, created by a security agreement, including a mortgage indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens and which is used as a dwelling, including a dual purpose or combination type dwelling which is also used as a business or commercial establishment, and has accommoda-

tions for not more than six families, except that a loan which: (a) is to be repaid in 90 days or less; (b) is taken as security for a home repair contract executed in accordance with the provisions of P. L. 1960, c. 41 (C. 17:16C-62 et seq.); or (c) is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in said dwelling for at least one year, if the buyer is purchasing said dwelling for his own residence and, as part of the purchase price, executes a secondary mortgage in favor of the seller, shall not be included within the definition of "secondary mortgage loan."

2. Section 8 of P. L. 1979, c. 226 (C. 17:9A-24.9) is amended to read as follows:

C. 17:9A-24.9 Additional powers of banks and savings banks.

8. Additional powers of banks and savings banks. In addition to the powers which banks and savings banks may otherwise exercise, every bank and savings bank, as defined in section 1 of "The Banking Act of 1948," P. L. 1948, c. 67 (C. 17:9A-1), shall have power

(1) To subscribe for, purchase and hold stock of one or more insurance companies organized under the laws of this State which have been or may hereafter be limited to insure banks, savings banks and other depository institutions

(a) Against loss from the defaults of persons in positions of trust, public or private, or against loss or damage on account of neglect or breaches of duty or obligations guaranteed by the insurer; and against loss of any bills of exchange, notes, checks, drafts, acceptances of drafts, bonds, securities, evidences of debt, deeds, mortgages, documents, gold or silver, bullion, currency, money, platinum and other precious metals, refined or unrefined, and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, and also against loss resulting from damage, except by fire, to the insured's premises, furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery, holdup, theft or larceny, or attempt thereat. No such indemnity indemnifying against loss of any property as specified herein shall indemnify against the loss of any such property occurring while in the mail or in the custody or possession of a carrier for hire for the purpose of transportation, except for the purpose of transportation by an armored motor vehicle accompanied by one or more armed guards; and

(b) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism or malicious mischief, or any one or

more of such hazards; and against any and all kinds of loss or destruction of or damage to moneys, securities, currencies, scrip, coins, bullion, bonds, notes, drafts, acceptances of drafts, bills of exchange and other valuable papers or documents, except while in the custody or possession of and being transported by a carrier for hire or in the mail.

(2) To make loans and investments as authorized for associations by section 155 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-155).

(3) To make loans and investments as authorized for associations by, and subject to the limitations of, sections 157 through 160 and 162 through 164 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-157 through C. 17:12B-160 and C. 17:12B-162 through C. 17:12B-164).

(4) To extend credit through the use of credit cards issued by it through an arrangement with participating vendors, and without limitation of the generality of the foregoing, to exercise all the powers permitted to associations pursuant to subsection (18) of section 48 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-48).

(5) To make any investment authorized for associations by section 165 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-165), provided, however, that where reference is made to State associations or federal associations therein such reference for purposes of this act shall be deemed to refer to banking institutions as defined in section 1 of "The Banking Act of 1948," P. L. 1948, c. 67 (C. 17:9A-1).

(6) To exercise any powers and activities that have been or are hereafter approved by regulation of the Board of Governors of the Federal Reserve System as being so closely related to banking or managing or controlling banks as to be a proper activity for a bank holding company pursuant to the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.) and regulations thereunder.

(7) To apply to the commissioner for authority, and if granted, to exercise any power or activity that has been or is hereafter deemed to be closely related to banking under the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U. S. C. § 1841 et seq.) and which has been permitted on an individual basis by order of the Board of Governors of the Federal Reserve System.

(8) To make loans, as defined in this subsection, pursuant to which the parties may contract for and the bank or savings bank may receive interest or other compensation at a rate or rates or in an amount that the bank or savings bank and the borrower may agree upon, notwithstanding the provisions of any other law of this State, except N. J. S. 2C:21-19, which limits the interest rate or finance charge which would otherwise be applicable to the loan. A loan, for the purposes of this subsection, includes loans in the amount of \$5,000.00 or more, payable on demand or in installments, and (a) which is for the purpose of acquiring or is secured by equipment used for business or commercial purposes or (b) is secured by (i) an interest in warehouse receipts, bills of lading, or other documents of title which are subject to chapter 7 of Title 12A of the New Jersey Statutes, or (ii) by an interest in negotiable instruments or commercial paper which are subject to chapter 3 of Title 12A of the New Jersey Statutes, or (iii) by an interest in stocks, bonds, certificates of deposit or other securities which are subject to chapter 8 of Title 12A of the New Jersey Statutes, or (iv) by an interest in any combination of the foregoing.

(9) To engage in the business of providing data processing and computer services.

(10) To acquire, by purchase or otherwise, and to sell warrants, options or other similar rights to any class or classes of equity securities issued or to be issued by a corporation, if, at the time the warrants, options or other similar rights are acquired, the issuer, or its parent company, affiliate or subsidiary, is a borrower of funds loaned by the bank or savings bank, and if the acquisition by purchase or otherwise, and the sale of the warrants, options or other similar rights neither adds to the bank's or saving bank's credit risk nor increases the bank's or savings bank's financial liabilities.

The commissioner may, by regulation, prescribe the manner in which and the extent to which the powers enumerated in this section may be exercised, including whether they are to be exercised through a subsidiary corporation and may, by regulation, prescribe other powers, not otherwise expressly authorized or prohibited by law, which banks and savings banks may exercise.

3. Section 25 of P. L. 1948, c. 67 (C. 17:9A-25) is amended to read as follows:

C. 17:9A-25 Additional powers of banks.

25. Additional powers of banks.

In addition to the powers specified in section 24, every bank shall, subject to the provisions of this act, have the following powers, whether or not such powers are specifically set forth in its certificate of incorporation:

(1) To discount, buy, invest in, hold, assign, transfer, sell, and negotiate promissory notes, drafts, bills of exchange, mortgages, trade acceptances, bankers' acceptances, bonds, debentures, bonds or notes secured by mortgages, installment obligations, balances due on conditional sales, and other evidences of debt for its own account, or for the account of customers;

(2) To accept for payment at future dates drafts drawn upon it by its customers;

(3) To issue letters of credit authorizing holders thereof to draw drafts upon it or upon its correspondents at sight or on time; to guarantee the payment by its customers of amounts due or to become due upon the purchase by such customers of real or personal property;

(4) To receive interest and noninterest bearing demand and time deposits, to be repaid on such terms as may be agreed upon between the depositors and the bank, and to furnish security for such deposits when required by the laws of this State or of the United States, or by rules or orders of any court of this State or of the United States or by the regulations of an officer or agency of this State or of the United States, made pursuant to such law; provided that no bank shall be required to give security for deposits made by this State, or any political subdivision thereof, or any other body politic existing under the laws of this State, to the extent that such deposits are insured under any federal legislation providing for the insurance of bank deposits;

(5) To maintain savings departments for the receipt of interest and noninterest bearing deposits, to be repaid on such terms as may be agreed upon between the depositors and the bank, and to commingle such deposits with deposits otherwise received;

(6) During hours other than the bank's usual hours for receipt of deposits, to provide the equipment for receiving, and to receive, containers purporting to contain moneys or instruments for the payment of money;

(7) To make loans, secured or unsecured, including loans to its stockholders;

(8) To extend credit by honoring overdrafts upon deposit accounts, but no credit shall be so extended except pursuant to written agreement made in advance;

(9) To buy and sell gold and silver bullion, foreign coin, and exchange;

(10) To purchase and sell debt and equity securities of other corporations, without recourse, solely upon order and for the account of customers. This paragraph shall not limit the power of a bank to take securities of other corporations as collateral security for loans, discounts, or other extensions of credit, or to acquire those securities when their acquisition is necessary to prevent or minimize loss upon debts previously contracted in good faith. Equity securities acquired pursuant to this paragraph shall be sold within five years after their acquisition, except that the commissioner may, by order, extend the time within which sales of equity securities described in such order shall be made; but this paragraph shall not invalidate the holding of any equity securities lawfully acquired on or before the effective date of this act. This paragraph shall not apply to any case in which, pursuant to any other provision of this act, or pursuant to any other act, a bank is expressly authorized to subscribe for, purchase or otherwise acquire or hold securities;

(11) To receive any tangible personal property for safekeeping and storage on the terms provided by chapter 7 of Title 12A of the New Jersey Statutes, and to keep, maintain, and rent out for hire, space for the storage and safekeeping of personal property of such kind and description, or represented by the depositor thereof to be of such kind and description, as the commissioner may by regulation from time to time prescribe; but nothing herein contained shall limit the power of a bank to let space for the storage and safekeeping of personal property to which the bank has security title or in which it has a lien interest;

(12) To avail itself of the provisions of any federal legislation providing for the extension of any lawful banking activity in the making of loans or the extension of credit to individuals, or for the financing of business enterprises, or in such other banking activity as may be specified in such legislation and made available for participation by banks; except that the power by this paragraph conferred shall not be exercised unless the commissioner shall make a general order authorizing such participation upon such terms and conditions as may in such order be prescribed;

(13) To act as the fiscal agent of the United States, and of any corporation, and of any State, county, municipality, board, commission or other body politic, and to perform all duties as such fiscal agent as may lawfully be required of it;

(14) To assist customers or act for customers in the preparation, handling and disbursement of payrolls and payroll deductions and in the preparation, maintenance and furnishing of records and statistical information in connection therewith.

4. Section 35 of P. L. 1948, c. 67 (C. 17:9A-35) is amended to read as follows:

C. 17:9A-35 Trust funds.

35. Trust funds.

A. All moneys, securities and other property held by a qualified bank in fiduciary capacities, pursuant to paragraphs (5), (6), (7), (8), (9) and (10) of section 28, shall be kept separate and apart from the moneys, securities and other property belonging to such bank, and such moneys, securities and other property shall not be liable for the debts or obligations of the bank; except that moneys held by a qualified bank in one or more such fiduciary capacities, awaiting investment or disbursement, may be deposited in a single account or in separate accounts with itself or with any other banking institution or with any bank, trust company or national banking association having its principal office in any other state. Moneys so deposited with itself may be used by the bank in the conduct of its business. Securities held by a qualified bank in fiduciary capacities may also be deposited with any other banking institution, or with any bank, trust company or national banking association having its principal office in any other state. The duties of the depository in respect to securities so deposited with it shall be confined to the safekeeping thereof, the collection of interest thereon for the account of the depositing qualified bank, and the performance of such other clerical or ministerial acts as the depositing qualified bank may from time to time request. Nothing herein contained shall be construed as relieving the depositing qualified bank from the duty to account for all securities deposited as authorized by this subsection.

B. In the event of the insolvency of a qualified bank which has deposited such moneys with itself, such bank in such fiduciary capacities shall have claims against the assets of the bank for moneys so deposited, preferred over claims not otherwise entitled

to preference, but subordinate to all other claims which shall be entitled to preference. In the event of the insolvency of any other banking institution or of any bank, trust company or national banking association having its principal office in any other state, in which such moneys shall have been deposited, a qualified bank which shall have made such deposits shall be liable for the amount of such deposits as if such deposits had been made with it, and shall be subrogated to its claims as fiduciary against the insolvent banking institution, bank, trust company or national banking association in which such deposits shall have been made.

C. Notwithstanding any other provisions of law, any qualified bank holding securities in a trust estate, or any banking institution holding securities as a custodian or managing agent, or as custodian for a fiduciary, is authorized to deposit or arrange for the deposit with the federal reserve bank in its district, any securities so held, the principal and interest of which the United States of America or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment. Securities so deposited shall be credited to one or more accounts on the books of such federal reserve bank in the name of such qualified bank or such banking institution, to be designated fiduciary or safekeeping accounts, to which other similar securities may be deposited. The records of such qualified bank and the records of a banking institution acting as custodian, as managing agent or as custodian for a fiduciary, shall at all times show the name of the party for whose account the securities are so deposited. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such federal reserve bank without physical delivery of certificates representing such securities. A qualified bank or banking institution depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of State-chartered institutions, the commissioner, and in the case of national banks, the comptroller of the currency, may from time to time issue. A qualified bank or banking institution acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such qualified bank or banking institution with such federal reserve bank for the account of such fiduciary. A qualified bank shall, on demand by any party to a judicial proceeding for the settlement of such qualified bank's account as fiduciary, or on demand by the attorney for such party, certify in writing to such party the

securities deposited by such qualified bank with such federal reserve bank for its account as fiduciary. This subsection shall apply to any qualified bank or banking institution holding securities in a fiduciary, custodial or management capacity, acting on the effective date of this act or who thereafter may act, regardless of the date of the agreement, instrument or court order pursuant to which such qualified bank or banking institution is acting. Nothing contained in this subsection shall be construed as relieving a qualified bank or banking institution depositing securities as authorized by this subsection from the duty to account for all securities so deposited.

C. 17:9A-37.1 Single common trust fund.

5. a. (New section) A bank may, without order or judgment of a court or officer, merge or combine two or more of its own or its affiliate banks' common trust funds into a single common trust fund, which single common trust fund may be administered by the bank or by its affiliate bank located in this State; provided that:

(1) The combination or merger does not contravene the terms of the written plan for each of the funds to be merged or combined.

(2) There is a written plan governing the merger or combination of the funds which has been approved by the board of directors, or by a duly authorized committee of the bank or banks, which plan shall contain provisions, including, but not limited to, a designation of which of the merging or combining common trust funds shall be the surviving common trust fund, a specification of any amendments or changes in the plan of operation of the surviving common trust fund, and a provision governing the conversion of units of participation in the funds to be merged or combined into units of participation in the surviving common trust fund, including the payment of cash for fractional units.

(3) Each trust estate having a participation in the common trust funds to be merged or combined shall receive units in the surviving common trust fund based on its pro rata interest in the value of the assets of the merging or combining common trust funds as determined according to subsection b. of section 40 of P. L. 1948, c. 67 (C. 17:9A-40).

b. As used in this section, "common trust fund," "bank," "participation," "trust estate," and "affiliate bank" shall have the same meaning as set forth in section 36 of P. L. 1948, c. 67 (C. 17:9A-36).

6. Section 65 of P. L. 1948, c. 67 (C. 17:9A-65) is amended to read as follows:

C. 17:9A-65 Real property mortgages.

65. Real property mortgages. A. No bank shall make a mortgage loan secured by a mortgage upon real property unless

(1) (Deleted by amendment; P. L. 1985, c. 528.)

(2) The mortgaged property shall consist of improved real property, including farmlands, or unimproved real property, if the proceeds of such loan shall be used for the purpose of erecting improvements thereon;

(3) The mortgage securing such loan shall constitute a first lien on a fee; a mortgage shall be deemed a first lien notwithstanding the existence of a prior mortgage or mortgages held by the bank, or liens of taxes which are not delinquent, building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, joint drive-ways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments, which the persons signing the certificate provided for in section 67 report in their opinion do not materially affect the security for the mortgage loan. Every mortgage shall be certified to be such a first lien by an attorney-at-law of the state in which the real property is located, or certified or guaranteed to be such a first lien by a corporation authorized to guarantee titles to land in such state;

(4) No such loan shall be made for a period longer than 40 years from its date, and no such loan shall exceed 80% of the appraised value of the mortgaged property; provided that there shall be included in the appraised value of the mortgaged property, for the purpose of this paragraph (4), the value of the improvements to be erected upon the mortgaged property wholly or partly with the proceeds of such loan; and

(5) The instrument evidencing the loan shall require payment to be made during each year on account of the principal amount of the loan, at a rate not less than 1% per annum of the original amount of the loan, if the original amount of the loan does not exceed 50% of the appraised value of the mortgaged property; or 2% per annum of the original amount of the loan, if the loan exceeds 50% but does not exceed 66 $\frac{2}{3}$ % of such appraised value; or 4% per annum of the original amount of the loan, if the loan exceeds 66 $\frac{2}{3}$ % of such appraised value; provided that, in lieu of such principal payments, the instrument evidencing any mortgage loan may require equal monthly payments, each applicable to principal and interest, in an amount sufficient to pay current

interest and to repay the amount of the loan in not more than 40 years from its date; and provided further that when the proceeds of any such loan are to be used to pay, in whole or in part, the cost of constructing a building or buildings on the mortgaged property, and such proceeds are paid by the bank from time to time, final payment being made at or after completion, the instrument evidencing such loan need not require that any payment be made on account of the principal amount of the loan during the period from the date of such loan to a date not more than 18 months from the date of such loan; and such date marking the end of the period during which no payments are required to be made on account of the principal amount of the loan shall be deemed to be the date of such loan for the purpose of reckoning the 40-year period limited for the payment of such loan by this paragraph (5), and by paragraph (4) of this subsection.

B. The commissioner may, from time to time, with the concurrence of the banking advisory board, make, alter and rescind regulations:

(1) Authorizing banks to make mortgage loans, or specified types or classes of mortgage loans, (a) which exceed 80% of the appraised value of the mortgaged property; (b) which mature in more than 25 years from their date; (c) which require smaller annual payments on account of the principal amounts thereof than those specified in paragraph (5) of subsection A of this section; (d) which provide for equal monthly payments, each applicable to principal and interest, in amounts sufficient to pay current interest on and to repay the amount of the loan in such number of years, more than 40 but not more than 45, as the regulations may specify; or (e) which substantially conform to the terms and conditions of mortgage loans authorized to be made by associations pursuant to the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-1 et seq.);

(2) Defining "improved real property" for the purposes of paragraph (2) of subsection A of this section;

(3) Increasing the percentage of the time deposits or the aggregate of the unimpaired capital stock and surplus of banks which banks may invest in mortgage loans beyond the limitation expressed in subsection A of section 69;

(4) Increasing the percentage of the principal balances owing on mortgage loans of the kind referred to in section 68 which

shall not be included in the total of all principal balances owing on mortgage loans for the purposes of subsection A of section 69, or eliminating entirely the principal balances owing on such mortgage loans from such total of all principal balances.

C. In making, altering and rescinding regulations pursuant to subsection B of this section, the commissioner and the banking advisory board shall consider the statutes and regulations applicable to national banks in the making or acquiring of loans secured by interests in real property and the practices followed by national banks in the making or acquiring of such loans. The regulations so made shall, so far as the commissioner and the banking advisory board deem to be warranted by the state of the economy and to be consistent with sound banking practices, be directed toward the creation and maintenance of a substantial parity between banks and national banks in all matters relating to the making and acquiring of loans secured by interests in real property. The power to regulate as provided in subsection B of this section may be exercised by the commissioner and the banking advisory board within the standards established by this subsection, notwithstanding that the subject of such regulation is not expressly set forth in subsection B of this section.

D. A bank may make a mortgage loan in excess of the ratio between appraised value and the amount of the loan as established by subsection A(4) of this section, provided that the amount of such excess is secured by other collateral having a value at all times at least equal to the amount of the principal balance in excess of that amount permitted by subsection A(4) or as established by regulation of the Commissioner of Banking.

7. Section 71 of P. L. 1948, c. 67 (C. 17:9A-71) is amended to read as follows:

C. 17:9A-71 Definitions.

71. Definitions.

A. For the purposes of this article:

(1) "Controlling interest" means ownership or control of a majority of the issued and outstanding capital stock or securities of a corporation, having voting rights;

(2) "Corporation" means a corporation in which a director or an executive officer of a bank has a controlling interest or in which a director or an executive officer of a bank together with one or more other directors or executive officers of the bank has a control-

ling interest; "corporation" includes all subsidiaries of a corporation in which the corporation has a controlling interest;

(3) "Executive officer" means only those officers of a bank who participate in major policymaking functions of the bank otherwise than in the capacity of a director of the bank;

(4) "Partnership" means a partnership in which a director or an executive officer of a bank is a general or limited partner;

(5) "Liability" means indebtedness and liability to a bank of every kind and in every capacity, other than liability in a fiduciary capacity in which the fiduciary may lawfully incur such liability without personal responsibility therefor; "liable" means obligated for a liability;

(6) "Board of directors" means at least a majority of the members of the board of directors of a bank, and "executive committee" means at least a majority of the members of the executive committee of the board of directors;

(7) "Application" means a written, signed request by a director or an executive officer of a bank, or by a corporation or partnership, to be permitted to incur liability to the bank, and "applicant" means the signer of an application;

(8) Liability to a bank, payable on demand, shall be deemed to have a maturity six months from the date of incurring such liability;

(9) Any whole or part renewal or extension of any liability to a bank incurred pursuant to this article shall be deemed to be an initial incurring or liability to the bank;

(10) "Officer" means any officer other than an executive officer who participates in the operating management of a bank.

B. The commissioner may, from time to time, make, amend and repeal regulations, including (1) prescribing what constitutes "policymaking" within the meaning of paragraph (3) of subsection A of this section; and (2) increasing or decreasing the total amount in which a director or executive officer of a bank may become liable to the bank as prescribed by paragraph (5) of subsection B of section 72 (C. 17:9A-72); and (3) prescribing limitations on the liabilities to a bank which an officer who is not an executive officer of such bank may be permitted to incur to such bank. Regulations made pursuant to this article shall be directed toward creating and maintaining a substantial parity between

banks and national banks in prescribing the amount in which a bank may permit an executive or other officer to become liable to it.

8. Section 72 of P. L. 1948, c. 67 (C. 17:9A-72) is amended to read as follows:

C. 17:9A-72 Prerequisites to incurring liability; amounts.

72. Prerequisites to incurring liability; amounts.

A. No bank shall permit a director or an executive officer of the bank or a corporation or partnership to become liable to the bank, and no such director, executive officer, corporation or partnership shall become liable to a bank, except as authorized by this article.

B. A bank may permit a director or an executive officer of the bank or a corporation or a partnership to become liable to the bank; provided that:

(1) An application for the incurring of the proposed liability, containing such information as the commissioner may by regulation require, shall first be approved by resolution of the board of directors or of the executive committee; such resolution and the vote of each person thereon shall be recorded in the minutes of the meeting;

(2) If the applicant is an executive officer, the proposed liability will not cause the total of all liabilities of such officer to the bank to exceed \$10,000.00;

(3) If the applicant is a director, corporation or partnership, the bank shall be offered security having an ascertainable market value at least 20% greater than the amount of the proposed liability, or, if no such security or only partial security is offered, the proposed unsecured liability or the portion thereof for which no security is offered is, in the opinion of the board of directors or the executive committee, warranted by a written statement of the financial condition of the applicant;

(4) The proposed liability will not cause the total of

(a) The liabilities of a director or an executive officer, and

(b) The liabilities of each corporation in which such director or executive officer has a controlling interest, or in which such director or executive officer together with one or more other directors or executive officers has a controlling interest, and

(c) The liabilities of each partnership in which such director or executive officer is a partner, to exceed 10% of the amount of the capital funds of the bank, as defined in section 60 of P. L. 1948, c. 67 (C. 17:9A-60);

(5) Notwithstanding the limitations of paragraphs (2), (3) and (4) of this subsection, the proposed liability of the director or executive officer may be up to or equal to an amount that is permitted by the commissioner by regulation, or by separate regulations for directors and for executive officers, which regulations shall be directed toward creating and maintaining a substantial parity between banks and national banks.

C. When an application is made by a director of a bank or by a corporation or partnership, the applying director and any director who alone or with any one or more other directors or executive officers of the bank has a controlling interest in the corporation, and any director who is a general or limited partner in the partnership shall not vote to grant such application.

D. When an application is approved by the executive committee, the application shall be presented and the approving resolution of the executive committee shall be read at the next meeting of the board of directors, and such presentation and reading shall be noted in the minutes of such meeting.

9. Section 1 of P. L. 1959, c. 91 (C. 17:9A-59.1) is amended to read as follows:

C. 17:9A-59.1 Advance loans.

1. A. Subject to the provisions of this act, a bank may lend money to a borrower by advancing funds to or for the account of the borrower pursuant to the borrower's written authorizations. Such authorizations may take the form of checks drawn on the bank by the borrower, notwithstanding that the borrower has no funds, or has insufficient funds on deposit in the bank out of which such checks may be paid, may take the form of credit card agreements or they may take such other form as the bank and the borrower agree upon. Loans made pursuant to this act are referred to in this act as "advance loans" and persons to whom advance loans are made are referred to as "advance loan borrowers." Accounting periods, referred to in this act as "billing cycles," shall not vary more than four days from one month in duration and the billing date shall not vary more than four days from the billing date of the immediately preceding billing cycle. The term "monthly" shall refer in this act to the billing cycle and need not refer to a calendar month.

B. Nothing in this act shall apply to loans otherwise authorized by law or enforceable at law, and except for the provisions of the

criminal usury law, N. J. S. 2C:21-19, the provisions of any other loan or credit law of this State with respect to limitations on interest rate, charges, costs, fees, term of loan or collateral shall not apply to loans made hereunder.

C. A borrower may at any time prepay in part or in full the amount owing on advance loans, without penalty or prepayment charge.

10. Section 105 of P. L. 1948, c. 67 (C. 17:9A-105) is amended to read as follows:

C. 17:9A-105 Directors; quorum; actions.

105. Directors; quorum; actions.

a. A majority of the members of the board of directors shall constitute a quorum for the transaction of business. Except as otherwise provided by this act, action taken by a majority of a quorum shall be the action of the board.

b. Unless otherwise provided by the certificate of incorporation or bylaws, any action required or permitted to be taken pursuant to authorization voted at a meeting of the board or any committee thereof may be taken without a meeting if, prior or subsequent to that action, all members of the board or of the committee, as the case may be, consent thereto in writing and those written consents are filed with the minutes of the proceedings of the board or committee. The consent shall have the same effect as a unanimous vote of the board or committee for all purposes, and may be stated as a unanimous vote of the board or committee in any certificate or other document filed with the commissioner.

c. Any or all directors may participate in a meeting of the board or a committee of the board by means of conference telephone or any means of communication by which all persons participating in the meeting are able to hear each other, unless otherwise provided in the certificate of incorporation or the bylaws.

11. Section 212 of P. L. 1948, c. 67 (C. 17:9A-212) is amended to read as follows:

C. 17:9A-212 Acquisition of own stock.

212. Acquisition of own stock.

a. Except as otherwise provided in this section, no bank or capital stock savings bank shall purchase or otherwise acquire shares of its own capital stock, except as a result of a merger or to prevent or minimize loss upon a debt previously contracted in good

faith; shares of stock so purchased or acquired shall, not later than one year after the date of purchase or acquisition, be sold or be paid as a stock dividend, or be disposed of in part by sale and in part by payment of a stock dividend, as the board of directors may determine. The commissioner may, prior or subsequent to the expiration of the one year period or prior or subsequent to the expiration of any extended period, extend or further extend the time within which the actions required by this subsection may be done.

b. A bank or capital stock savings bank may, with the approval of the commissioner, provide in its original or amended certificate of incorporation for the acquisition, through purchase, of shares of its own capital stock. Shares so purchased or shares which the bank or capital stock savings bank may otherwise be authorized to issue may, with the approval of the commissioner, be sold by the bank or capital stock savings bank to those of the bank's or capital stock savings bank's stockholders who pay therefor with cash dividends declared by the bank or capital stock savings bank on its capital stock. These shares may, with the approval of the commissioner, be purchased by the bank or capital stock savings bank for such other uses and purposes, not contrary to law or sound banking principles, and for such consideration as the board of directors may from time to time determine. All shares acquired pursuant to this subsection shall be designated as "treasury stock," and, so long as they remain the property of the bank or capital stock savings bank, they shall not constitute capital stock for the purposes of P. L. 1948, c. 67 (C. 17:9A-1 et seq.).

12. Section 250 of P. L. 1948, c. 67 (C. 17:9A-250) is amended to read as follows:

C. 17:9A-250 Actions against directors, managers, officers, or employees; indemnification.

250. Actions against directors, managers, officers, or employees; indemnification.

A. As used in this section

(1) "Corporate agent" means any person who is or was a director, officer, employee or agent of the indemnifying bank or of any constituent banking institution or corporation absorbed by the indemnifying bank in a consolidation or merger or created by or owned by the indemnifying bank and any person who is or was a director, officer, trustee, employee or agent of any other enterprise, serving as such at the request of the indemnifying bank, or of any constituent banking in-

stitution or corporation or the legal representative of any such director, officer, trustee, employee or agent;

(2) "Other enterprise" means any domestic or foreign corporation, other than the indemnifying bank, and any partnership, joint venture, sole proprietorship, trust or other enterprise, whether or not for profit, served by a corporate agent;

(3) "Expenses" means reasonable costs, disbursements and counsel fees;

(4) "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties;

(5) "Proceeding" means any pending, threatened or completed civil, criminal, administrative or arbitral action, suit or proceeding, and any appeal therein and any inquiry or investigation which could lead to such action, suit or proceeding;

(6) "Bank" includes savings bank;

(7) "Directors" includes directors of a bank and capital stock savings bank and managers of a savings bank.

B. Any bank of this State shall have the power to indemnify a corporate agent against his expenses and liabilities in connection with any proceeding involving the corporate agent by reason of his being or having been such a corporate agent, other than a proceeding by or in the right of the bank, if

(1) Such corporate agent acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the bank;

(2) With respect to any criminal proceeding, such corporate agent had no reasonable cause to believe his conduct was unlawful.

The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that such corporate agent did not meet the applicable standards of conduct set forth in subdivisions (1) and (2) of this subsection.

C. Any bank of this State shall have the power to indemnify a corporate agent against his expenses in connection with any proceeding by or in the right of the bank to procure a judgment in its favor which involves the corporate agent by reason of his being or having been such corporate agent, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the bank. However, in such proceeding no in-

demnification shall be provided in respect of any claim, issue or matter as to which such corporate agent shall have been adjudged to be liable for negligence or misconduct, unless and only to the extent that the Superior Court or other court in which such proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all circumstances of the case, such corporate agent is fairly and reasonably entitled to indemnity for such expenses as the Superior Court or other court shall deem proper.

D. Any bank of this State shall indemnify a corporate agent against expenses to the extent that such corporate agent has been successful on the merits or otherwise in any proceeding referred to in subsections B and C of this section or in defense of any claim, issue or matter therein.

E. Any indemnification under subsection B of this section, and, unless ordered by a court, under subsection C of this section, may be made by the bank only as authorized in a specific case, upon a determination that indemnification is proper in the circumstances because the corporate agent met the applicable standard of conduct set forth in subsection B of this section or subsection C of this section. Unless otherwise provided in the certificate of incorporation or bylaws, the determination shall be made

(a) By the board of directors or a committee thereof acting by a quorum consisting of directors who were not parties to, or otherwise involved in, the proceeding; or

(b) If such a quorum is not obtainable, or, even if obtainable and that quorum of the board of directors or committee by a majority vote of the disinterested directors so directs, by independent legal counsel in a written opinion, that independent legal counsel to be designated by the board of directors; or

(c) By the stockholders, if the certificate of incorporation or bylaws or a resolution of the board of directors or of the shareholders so directs, in the case of a bank which is not a savings bank, and by the commissioner, in the case of a savings bank.

F. Expenses incurred by a corporate agent in connection with a proceeding may be paid by the bank in advance of the final disposition of the proceeding, if authorized in the manner provided in subsection D of this section, upon receipt of an undertaking by or on behalf of the corporate agent to repay such amount, unless it

shall ultimately be determined that he is entitled to be indemnified as provided in this section.

G. (1) If a bank upon application of a corporate agent has failed or refused to provide indemnification as required under subsection D of this section or permitted under subsections B, C and F of this section, a corporate agent may apply to a court for an award of indemnification by the bank, and such court

(2) May award indemnification to the extent authorized under subsections B and C of this section and shall award indemnification to the extent required under subsection D of this section, notwithstanding any contrary determination which may have been made under subsection E of this section; and

(3) May allow reasonable expenses to the extent authorized by, and subject to the provisions of, subsection F of this section, if the court shall find that the corporate agent has by his pleadings or during the course of the proceeding raised genuine issues of fact or law.

(4) Application for such indemnification may be made

(a) In the civil action in which the expenses were or are to be incurred or other amounts were or are to be paid; or

(b) To the Superior Court in a separate proceeding. If the application is for indemnification arising out of a civil action, it shall set forth reasonable cause for the failure to make application for such relief in the action or proceeding in which the expenses were or are to be incurred or other amounts were or are to be paid.

(5) The application shall set forth the disposition of any previous application for indemnification and shall be made in such manner and form as may be required by the applicable rules of court or, in the absence thereof, by direction of the court to which it is made. Such application shall be upon notice to the bank. The court may also direct that notice shall be given at the expense of the bank to the stockholders of a bank other than a savings bank and such other persons as it may designate in such manner as it may require.

H. The indemnification provided by this section shall not exclude any other rights to which a corporate agent may be entitled under a certificate of incorporation, bylaw, agreement, vote of stockholders of a bank other than a savings bank, or otherwise.

I. Any bank of this State shall have the power to purchase and maintain insurance on behalf of any corporate agent against any

expenses incurred in any proceeding and any liabilities asserted against him by reason of his being or having been a corporate agent, whether or not the bank would have the power to indemnify him against those expenses and liabilities under the provisions of this section.

J. The powers granted by this section may be exercised by a bank notwithstanding the absence of any provision in its certificate of incorporation or bylaws authorizing the exercise of such powers.

K. Except as required by subsection D of this section, no indemnification shall be made or expenses advanced by a corporation under this section, and none shall be ordered by the Superior Court or other court, if that action would be inconsistent with a provision of the certificate of incorporation, a bylaw, a resolution of the board of directors or of the shareholders, or an agreement or other proper corporate action, in effect at the time of the accrual of the alleged cause of action asserted in the proceeding, which prohibits, limits or otherwise conditions the exercise of indemnification powers by the corporation or the rights of indemnification to which a corporate agent may be entitled.

13. Section 18 of P. L. 1948, c. 67 (C. 17:9A-18) is amended to read as follows:

C. 17:9A-18 Names of banks and savings banks.

18. Names of banks and savings banks.

A. The name of every bank shall contain the word "bank" or "banking" or "trust," or a combination of the words "bank" or "banking" and "trust," except that no bank which is not qualified to exercise any of the powers specified in section 28 shall use the word "trust" as part of its name. Any bank which, immediately prior to the effective date of this act, lawfully used the word "savings" as part of its name may continue the use thereof, but no other bank shall hereafter use such word as part of its name.

B. The name of every savings bank shall contain the words "savings bank" or "savings fund society" or "savings institution" or "institution for savings" or "bank for savings." Any savings bank which, immediately prior to the effective date of this act, lawfully used the word "trust" as part of its name may continue the use thereof, but no other savings bank shall hereafter use such word as part of its name.

C. No bank or savings bank shall assume a name identical with that of an existing banking institution, or so similar thereto that confusion may result therefrom; except that, if a bank or savings bank is organized to succeed another bank or savings bank pursuant to section 16, it may adopt the name of the bank or savings bank which it succeeds.

D. No person, other than a banking institution or bank holding company, shall use the words "bank" or "banker" or "banking" or "trust" or "savings" or any of them, as part of his or its name, or in any representations describing his or its powers, services or functions, except as otherwise permitted by law. A violation of the provisions of this subsection shall be a misdemeanor, and the Superior Court shall have jurisdiction to enjoin such violation at the suit of the commissioner.

E. The provisions of subsection D of this section shall not apply to any corporation or association formed for the purpose of promoting the interests of banking institutions, the membership of which is comprised of banking institutions, their officers or other representatives; nor shall the said subsection apply to any partnership, association, or corporation, which, on the effective date of this act, lawfully used the words "bank," "banker," "banking," "trust," or "savings," or any of them, as part of its name.

F. The provisions of subsection D of this section shall not prevent the use of the word "savings" by a building and loan association or a savings and loan association, or by a corporation or association formed for the purpose of promoting the interests of building and loan associations or savings and loan associations, the membership of which is comprised of building and loan or savings and loan associations, their officers or other representatives.

14. Section 24 of P. L. 1948, c. 67 (C. 17:9A-24) is amended to read as follows:

C. 17:9A-24 Powers of banks and savings banks.

24. Powers of banks and savings banks. Every bank and savings bank shall, subject to the provisions of this act, have the following powers, whether or not such powers are specifically set forth in its certificate of incorporation:

- (1) To adopt a corporate seal, and to sue and be sued;
- (2) To issue cashier's checks, treasurer's checks, and money orders; to transmit funds; to guarantee signatures and endorsements;

(3) To borrow money, and to pledge, mortgage or hypothecate its real or personal property as security therefor, and to execute and deliver all such instruments as may be necessary to evidence such borrowing, pledge, mortgage, or hypothecation;

(4) To keep, maintain, and rent out for hire, at any location occupied by its principal office or any branch office, safe deposit boxes or other receptacles for the safekeeping of personal property. In exercising the powers authorized by this paragraph, the bank or savings bank shall have, but shall not be confined to, the same rights and remedies conferred upon safe deposit companies;

(5) To invest in real property as purchaser of the fee or as lessee, and to hold, lease and convey such real property, or any interest therein, for the following purposes and no others:

(a) Such as may be necessary or convenient for the use, operation, or housing of its principal office or any branch office, or an auxiliary office, or for the storage of records or other personal property, or for office space for use by its officers or employees, or which may be reasonably necessary for future expansion of its business, or which is otherwise reasonably incidental to the conduct of its business; and which may include, in addition to the space required for the transaction of its business, other space which may be let as a source of income. In exercising the powers conferred by this subparagraph, the bank or savings bank shall be subject to the limitations imposed by paragraph (13) of this section;

(b) Such as may be conveyed to it in whole or part satisfaction of debts previously contracted in the course of its dealings;

(c) Such as it shall purchase at sale under judgments and decrees in its favor, and on foreclosure of mortgages held by it;

(d) Such as it shall purchase or acquire to minimize or prevent the loss or destruction of any lien or interest therein; and

(e) Such as may be permitted for associations pursuant to subsections (4) and (21) of section 48 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B-48);

provided that all real property not held for any purpose specified in subparagraph (a) of this paragraph, shall be sold within five years of its acquisition, or within five years after the time it ceases to be held for any purpose specified in subparagraph (a) of this

paragraph, unless the commissioner shall extend the time within which such sale shall be made:

(6) To be a member of the Federal Reserve System; to subscribe for, purchase, hold, and surrender such amounts of the capital stock of the Federal Reserve Bank organized within the district in which such bank or savings bank is located as may be required or as may be deemed advisable by such bank or savings bank; and to have and exercise all powers, privileges and options which are conferred by law upon such members; to comply with all requirements of federal legislation and the rules and regulations lawfully promulgated thereunder governing such membership, as such legislation and such rules and regulations may provide at the time of inception of such membership, and as the same may from time to time thereafter be amended or supplemented; and to assume and discharge all liabilities and obligations which may be required by reason of such membership;

(7) To be a member of Federal Deposit Insurance Corporation, or of any successor corporation having for its purpose the insurance of deposits, and to do all things, and assume and discharge all liabilities and obligations imposed upon such members by federal legislation or by rules and regulations lawfully promulgated pursuant thereto, as the same may provide at the inception of such membership, or as the same may thereafter be amended or supplemented;

(8) To be a member of any federal agency hereafter created, membership in which is open to banking institutions, and the purpose of which is to afford advantages or safeguards to banking institutions, or to their depositors, and to comply with all the requirements and conditions imposed upon such members, except that the power by this paragraph conferred shall not be exercised unless the commissioner, with the concurrence of the banking advisory board, shall make a general order authorizing banks or savings banks, or both, to become and be such members, upon such terms and conditions as may in such order be prescribed;

(9) To subscribe for, purchase and hold stock of one or more safe deposit companies which have been or may be organized to do business on or adjacent to premises occupied by the principal office or a branch office of the bank or savings bank; provided that

(a) In the case of a savings bank, the amount so invested shall not exceed 5% of its surplus; and

(b) In the case of a bank, the amount so invested shall not exceed 10% of its capital stock and surplus; and

(c) Each purchase of such stock shall first have been authorized by a resolution, stating the number of shares to be purchased and the amount to be paid therefor, adopted by its board of directors or board of managers, and, in the case of a bank, approved by a majority in interest of its stockholders at any annual or special meeting; and

(d) Each purchase of such stock by a bank or savings bank shall have been approved in writing by the commissioner;

(10) To subscribe for, purchase and hold stock of not more than one fiduciary institution organized under any law of this State hereafter enacted; provided that

(a) In the case of a savings bank, the amount so invested shall not exceed 10% of its surplus; and

(b) In the case of a bank, the amount so invested shall not exceed 20% of its capital stock and surplus; and

(c) Each purchase of such stock shall first have been authorized by a resolution, stating the number of shares to be purchased and the amount to be paid therefor, adopted by its board of directors or board of managers, and, in the case of a bank, approved by a majority in interest of its stockholders at any annual or special meeting; and

(d) Each purchase of such stock by a bank or savings bank shall have been approved in writing by the commissioner;

(11) To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, or civic betterment, or the economic advantage of the community, and to instrumentalities for the protection or advancement of the interests of banking institutions, such sums as its board of directors or board of managers may deem expedient and in the interests of such bank or savings bank;

(12) To exercise all incidental powers, not specifically enumerated in this act, which shall be necessary or convenient to carry on the business of the bank or savings bank;

(13) To invest in stock of a subsidiary of such bank or savings bank which holds title to real property of the kind in which such bank or savings bank could itself invest pursuant to subparagraph (a) of paragraph (5) of this section, and to make secured or unsecured loans to such subsidiary, without regard to the limitations imposed by Article 13; but no bank or savings bank shall,

except with the prior approval of the commissioner (1) invest in real property including all capital leases, pursuant to subparagraph (a) of paragraph (5) of this section; or (2) invest in the stock or other securities of such subsidiary; or (3) make a loan to such subsidiary, if the aggregate of all such investments and loans, when added to any indebtedness otherwise owing by the subsidiary, will exceed the greater of (1) 50% of the capital funds of the bank or savings bank, or (2) the amount permitted to national banks for such investments. As used in this paragraph, "subsidiary" of a bank or savings bank means a corporation all of whose capital stock and other securities having voting rights are owned by such bank or savings bank, and whose powers are limited by its certificate of incorporation to the acquiring, holding, managing, selling, leasing, mortgaging, altering, improving and otherwise dealing in and with real property of the kind in which the bank or savings bank could itself invest pursuant to subparagraph (a) of paragraph (5) of this section; and "capital funds" means the aggregate of the capital stock, the principal amount owing on all capital notes, surplus and undivided profits of a bank, and the aggregate of the capital deposits, if any, and the surplus of a savings bank. Every subsidiary of a bank or savings bank shall be subject to examination by the commissioner as provided in the case of banks and savings banks pursuant to sections 260, 261, 262, 263 and 335, and the ultra vires or unlawful act of a subsidiary of a bank or savings bank shall be deemed to be the ultra vires or unlawful act of such bank or savings bank for the purposes of Article 42. In determining whether to give or withhold approval of an investment or loan in excess of the limitation imposed by this paragraph, the commissioner shall consider whether the making of such loan or investment is consistent with sound banking practice, having regard to (1) the ratio between the aggregate of such loans and investments and the capital funds of the bank or savings bank; (2) the benefits to the bank or savings bank reasonably to be anticipated from such investment or such loan; (3) the ratio between such aggregate capital funds and total deposits; and (4) such other factors as the commissioner shall consider germane to the protection of deposits. A violation of any provision of this paragraph by any bank, savings bank, or subsidiary of a bank or savings bank shall not impair the validity or sufficiency of any deed of conveyance, mortgage, or lease made by such bank, savings bank, or subsidiary, of real property owned by it; nor shall any other interest in such real property, acquired by or vested in any person claiming

through or under such bank, savings bank, or subsidiary, or to which such person may be entitled, be impaired by reason of such violation;

(14) To make or invest in any secondary mortgage loan as defined in section 1 of P. L. 1948, c. 67 (C. 17:9A-1). Secondary mortgage loans shall be repayable in installments under the same terms and conditions as provided for secondary mortgage loan licensees under the "Secondary Mortgage Loan Act," P. L. 1970, c. 205 (C. 17:11A-34 et seq.), only with respect to maximum term, maximum loan amount and maximum annual percentage rate of interest. The Commissioner of Banking shall have the power, in relation to a "secondary mortgage loan," to adopt, amend, alter or rescind regulations, the requirements of which, in his judgment, are necessary for the implementation of this paragraph;

(15) To purchase, hold and invest in mortgages, obligations or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the "Federal Home Loan Mortgage Corporation Act," Pub. L. 91-351 (12 U. S. C. § 1454 or 12 U. S. C. § 1455), to the same extent that the bank or savings bank may purchase, hold or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

15. Section 1 of P. L. 1964, c. 202 (C. 17:9A-27.50) is amended to read as follows:

C. 17:9A-27.50 Stock option plan.

1. a. Subject to the limitations prescribed by this act, a bank may grant options to purchase shares of its capital stock to its officers and employees, and to the officers and employees of any subsidiary, without first offering the same to its stockholders, for a consideration in cash of not less than the higher of par value or 85% of the fair market value of the shares at the time the options are granted, pursuant to the terms of a stock option plan which has been previously adopted by its board of directors and approved by the holders of two-thirds of the capital stock of the bank entitled to vote. A stock option plan adopted and approved as provided herein may contain any provisions which the bank may choose to make and which are not prohibited by law. The number of shares which may be issued or purchased pursuant to any one stock option plan shall not exceed 5% of the amount of outstanding shares of the capital stock of the bank at the time of the adoption of the plan, but there may be more than one stock option plan in effect at the

same time, provided that the total number of shares of stock subject to all existing stock option plans may not exceed 10% of the amount of the outstanding shares of the capital stock of the bank. In the absence of actual fraud in the transactions, and within the limits of the particular stock option plan under which a stock option is issued, the judgment of the board of directors as to the consideration for the issuance of such options and the sufficiency thereof, and as to the recipients of the options, shall be conclusive.

b. In addition to, or as an alternative to, adopting a stock option plan pursuant to paragraph a. of this section, a bank may adopt any form of stock option plan which is an Incentive Stock Option as defined in section 422A of the Internal Revenue Code or an Employee Stock Purchase Plan as defined in section 423 of the Internal Revenue Code, provided that the additional or alternative plan shall be adopted by the board of directors and approved by the holders of two-thirds of the capital stock of the bank entitled to vote.

16. Section 36 of P. L. 1948, c. 67 (C. 17:9A-36) is amended to read as follows:

C. 17:9A-36 Definitions.

36. Definitions.

As used in this article, and except as the context otherwise requires,

(1) "Common trust fund" means a fund established and maintained by a bank exclusively for the collective investment and re-investment of moneys contributed thereto by the bank or any of its affiliate banks in any fiduciary capacity specified in paragraphs (5), (6), (9) and (10) of section 28;

(2) "Bank" means a qualified bank which is empowered to invest moneys entrusted to it in any capacity specified in paragraphs (5), (6), (9) and (10) of section 28;

(3) "Cofiduciary" means one or more individuals or corporations, or both, lawfully acting or entitled to act jointly with a bank in the exercise of the powers referred to in the next preceding paragraph;

(4) "Trust instrument" means the will, deed, agreement, court order or other instrument pursuant to which money or other property is entrusted to a bank as sole fiduciary or jointly with a cofiduciary;

(5) "Trust estate" means money or other property entrusted to a bank solely or jointly with a cofiduciary pursuant to a trust instrument;

(6) "Participation" means the undivided share in a common trust fund which accrues to a trust estate as the result of a bank's investment of funds of such trust estate in such common trust fund;

(7) "Affiliate banks" means banks, including out-of-State banks, at least 90% of whose issued and outstanding stock is owned by the same in-State or out-of-State corporation;

(8) "Out-of-State bank" means a corporation organized as a bank under the laws of a state other than New Jersey or a national banking association having its principal office outside of New Jersey.

17. Section 37 of P. L. 1948, c. 67 (C. 17:9A-37) is amended to read as follows:

C. 17:9A-37 Participation in common trust fund.

37. Participation in common trust fund.

A. Subject to the limitations of this article, a bank may create and maintain one or more common trust funds, and may, without order or judgment of any court or officer, invest in cash all or any part of the funds of any one or more trust estates in any one or more common trust funds.

B. Where there is a cofiduciary, the bank shall acquire no participation in a common trust fund without the prior written consent of the cofiduciary, who is hereby authorized to give such consent. Such participation shall be withdrawn within three months after the written request of a cofiduciary for such withdrawal.

C. Investment of funds of a trust estate in a common trust fund or funds may be made as provided in this article, notwithstanding that the trust instrument became operative before the effective date of this act, and notwithstanding that the trust instrument, regardless of the date of its effectiveness, does not specifically authorize such an investment; but no investment shall be made in a common trust fund contrary to the express provisions of the trust instrument.

D. No bank shall invest any of its own funds in a common trust fund.

E. Each common trust fund shall be established and maintained in accordance with a written plan, so as to qualify as a common trust fund under federal revenue laws, and, to that end, each bank in establishing and maintaining a common trust fund shall conform with and be subject to the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks.

F. (Deleted by amendment.)

G. (Deleted by amendment, P. L. 1985, c. 528.)

18. Section 247 of P. L. 1948, c. 67 (C. 17:9A-247) is amended to read as follows:

C. 17:9A-247 Banking records.

247. Banking records.

a. Any banking institution may cause to have copied or reproduced by any photostatic, photographic or miniature photographic process which correctly and accurately copies or reproduces, or forms a medium of copying or reproducing, all or any part of its documents and records relating to the accounts of its depositors and the operation of its business, other than its notes, bonds, mortgages and other securities and investments, and may substitute the copy or reproduction, in either positive or negative form, for the original thereof. Thereafter, the copy or reproduction, in the form of a positive print thereof, shall be deemed for all purposes to be an original counterpart of the original thereof and shall have the same force and effect as the original thereof, and the banking institution may destroy or otherwise dispose of the original.

For the purposes of this section, open-end line-of-credit agreements, including, but not limited to, advance loan contracts made pursuant to P. L. 1959, c. 91 (C. 17:9A-59.1 et seq.) and revolving credit equity loans pursuant to regulation of the commissioner, are not deemed to be notes, bonds, mortgages or other securities or investments and their copies shall be deemed to have the same force and effect as the originals, as set forth in this section.

b. The commissioner may adopt rules and regulations permitting the destruction of originals and copies of books, records, certificates, documents, reports, correspondence and other instruments, papers and writings of a banking institution, which, because of age or other reasons, need not be preserved.

C. 17:9A-63.1 Excess charge.

19. (New section) Notwithstanding any other law of this State, a banking institution which makes a charge or imposes a fee in excess of that permitted by P. L. 1948, c. 67 (C. 17:9A-1 et seq.), R. S. 31:1-1 et seq. or any other applicable law, shall have no liability for that charge or imposition if, within 60 days after discovering the excess charge or imposition, either through its own procedures or through an examination, and prior to any action being commenced or written notice being received from the obligor, the banking institution notifies the person or entity concerned of the error and makes whatever adjustments are necessary to assure that the person or entity will not be required to pay any amount in excess of the amount permitted to be charged or imposed.

20. Section 3 of P. L. 1969, c. 118 (C. 17:9A-357) is amended to read as follows:

C. 17:9A-357 Plan of acquisition.

3. Plan of acquisition.

(1) The boards of directors of the corporation which seeks to become an acquiring corporation and of each bank which seeks to become a participating bank shall authorize the execution of a plan for the acquisition by such corporation of ownership of all the outstanding shares of the capital stock of each such bank.

(2) The plan of acquisition shall contain

(a) The name and address of the acquiring corporation;

(b) The name and address of each participating bank;

(c) The names and addresses of the members of the board of directors of the acquiring corporation;

(d) The names and addresses of all banks some or all of whose shares of capital stock are owned by the acquiring corporation, with the total number of shares of each such bank issued and outstanding, and the number of shares of each such bank owned by the acquiring corporation;

(e) The terms and conditions of the acquisition, and the mode of carrying it into effect, including the manner of exchanging the shares of each participating bank for cash or shares or other securities of the acquiring corporation, and including provisions respecting the disposition of securities issued by a participating bank and convertible into shares of its capital stock, and options granted to officers and employees of a participating bank to purchase shares of its capital stock;

(f) The effective date of the plan of acquisition;

(g) Such other provisions, including the payment of cash in lieu of the issuance of fractional shares, as may be necessary or appropriate to carry the plan of acquisition into effect.

(3) The plan of acquisition may provide that the shares of the participating bank be exchanged solely for cash or solely for shares or securities of the acquiring corporation or be exchanged for both cash and shares or other securities.

21. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 529

A SUPPLEMENT to "An act concerning limitations imposed upon increases in municipal final appropriations and county tax levies, and amending and supplementing P. L. 1976, c. 68," approved January 31, 1983 (P. L. 1983, c. 49; C. 40A:4-45.12 et seq.).

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

1. The commission shall include in its 1985 annual report a recommendation to the Governor and Legislature on whether the maintenance of county patients in State hospitals for the mentally ill and in State developmental centers for the developmentally disabled shall be added to the exceptions from the limitations on the county tax levy permitted under section 4 of P. L. 1976, c. 68 (C. 40A:4-45.4). The commission shall also include in its 1985 annual report recommendations on whether other similar State-mandated expenses shall be added to exceptions from the limitations on the county tax levy.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 530

AN ACT appropriating funds from the Human Services Facilities Construction Fund for the planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of human services facilities.

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

1. There is appropriated to the Department of Human Services from the "Human Services Facilities Construction Fund" created by the "New Jersey Human Services Facilities Construction Bond Act of 1984," P. L. 1984, c. 157, the sum of \$26,801,000.00 for the following construction projects:

Division of Mental Health and Hospitals

Renovations and improvements to mental health facilities	\$ 7,027,000
Community Grants for community group residences	\$ 470,000
Community Grants for mental health screening	\$ 355,000

Division of Developmental Disabilities

Renovations and improvements to developmental centers	\$10,669,000
Community Grants for renovations and improvements of community residences	\$ 900,000

Division of Veterans' Services

Renovations and improvements to veterans' facilities	\$ 50,000
New construction—planning and design of Veterans' Nursing Facility, Paramus	\$ 1,000,000

Division of Youth and Family Services

Renovations and improvements to youth services facilities	\$ 1,460,000
Community Grants—new family shelters	\$ 300,000
Community Grants—new partial care facilities	\$ 300,000
Community Grants—renovations of partial care facilities	\$ 200,000

Community Grants—new substitute care facilities	\$	450,000
Community Grants—renovations of substitute care facilities	\$	200,000
Community Grants—new domestic violence shelters	\$	250,000
Community Grants—renovations of domestic violence shelters	\$	320,000
Commission for the Blind and Visually Impaired		
Community Grants—for community group residences	\$	350,000
Division of Management and Budget		
Solid Waste Management	\$	2,500,000

2. There is also appropriated from the proceeds of the sale of the above mentioned bonds such amounts as may be necessary to meet any expense incurred by the issuing officials under P. L. 1984, c. 157 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. The Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, of any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The correction shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect. An official copy of each such written ruling shall be transmitted to the Legislative Budget Officer upon the effective date of the ruling.

4. The Director of the Division of Budget and Accounting may approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

5. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item of appropriation to any other item of appropriation within the respective department ac-

counts. The transfer shall be made upon the written approval of the director and of the Joint Appropriations Committee's Subcommittee on Transfers or its successor.

6. The Commissioner of Human Services shall report to the Senate Institutions, Health and Welfare Committee and General Assembly Corrections, Health and Human Services Committee on the status of the appropriations provided in this act six months from the effective date of this act and annually thereafter until all of the funds have been expended. The status report shall specify the projects that are funded and the amounts of funds appropriated, obligated and expended for each project.

7. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 531

AN ACT to amend the "Environmental Rights Act," approved December 9, 1974 (P. L. 1974, c. 169).

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

1. Section 10 of P. L. 1974, c. 169 (C. 2A :35A-10) is amended to read as follows:

C. 2A:35A-10 Counsel, expert witness fee limits.

10. a. In any action under this act the court may in appropriate cases award to the prevailing party reasonable counsel and expert witness fees, but not exceeding a total of \$10,000.00.

b. The doctrines of collateral estoppel and res judicata may be applied by the court to prevent multiplicity of suits.

c. An action commenced pursuant to the provisions of this act may not be dismissed without the express consent of the court in which the action was filed.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 532

AN ACT concerning the continuation of membership in the Public Employees' Retirement System and amending P. L. 1954, c. 84.

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

1. Section 8 of P. L. 1954, c. 84 (C. 43:15A-8) is amended to read as follows:

C. 43:15A-8 Retirement system membership continuation.

8. a. If a member of the retirement system has been discontinued from service through no fault of his own or through leave of absence granted by his employer or permitted by any law of this State and he has not withdrawn his accumulated deductions, his membership may continue, notwithstanding any provisions of this act if such member returns to service within a period of 10 years from the date of his discontinuance from service.

No credit for pension purposes shall be allowed to such member, covering the period of his discontinuance, unless leave of absence was granted by his employer and the board, as provided for in section 39 of this act.

b. If an employee who has withdrawn his accumulated deductions from the former "State Employees' Retirement System" or the retirement system as provided in section 41 of this act is re-enrolled as a member of the retirement system, he may purchase credit for all of his previous membership service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time. Such purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system, over a maximum period of 10 years. In order to give to such person the same credit for such service as he had at the time of withdrawal, his pension credit shall be restored as it was at the time of his withdrawal upon the completion of one year of membership after his election to make the purchase and the payment of at least one-half the total amount due, except that in the case of retirement pursuant to sections 38, 41(b), 48 and 61, the credit granted for the service being purchased shall

be in direct proportion as the amount paid bears to the total amount of the arrearage obligation.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 533

AN ACT to amend the title of "A Supplement to the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39; C. 13:1E-1 et seq.), as said short title was amended by P. L. 1975, c. 326," approved September 9, 1981 (P. L. 1981, c. 278), so that the same shall read "An act concerning litter pickup and removal and the recycling of waste materials, and supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.)," to amend and supplement the body of said act, to amend R. S. 39:5-41 and to make appropriations.

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

1. The title of P. L. 1981, c. 278 is amended to read as follows:

Title amended.

An act concerning litter pickup and removal and the recycling of waste materials, and supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.).

2. Section 1 of P. L. 1981, c. 278 (C. 13:1E-92) is amended to read as follows:

C. 13:1E-92 Short title amended.

1. This act shall be known and may be cited as the "Clean Communities and Recycling Act."

3. Section 2 of P. L. 1981, c. 278 (C. 13:1E-93) is amended to read as follows:

C. 13:1E-93 Findings, declarations.

2. The Legislature finds that New Jersey must continue to seek solutions to its energy, environmental and economic problems;

that solutions to these problems require proper solid waste and resource recovery management; that the generation of municipal solid waste is increasing while landfill capacity is decreasing; that the siting of environmentally secure landfills is an area of serious concern and limited choice; and that the disposal of solid waste materials is wasteful of valuable resources.

The Legislature further finds that the recycling of waste materials decreases waste flow to landfill sites, recovers valuable resources, conserves energy in the manufacturing process, and offers a supply of domestic raw materials for the State's industries; that a comprehensive recycling plan and program is necessary to achieve the maximum practicable recovery of reusable materials from solid waste in this State; and that such a plan will reduce the amount of waste to landfills, conserve energy and resources, and recover materials for industrial uses.

The Legislature finds that an uncluttered landscape is among the most priceless heritages which New Jersey can bequeath to posterity; that it is the duty of government to promote and encourage a clean and safe environment; that the proliferation and accumulation of carelessly discarded litter may pose a threat to the public health and safety; that the litter problem is especially serious in a State as densely populated and heavily traveled as New Jersey; and that unseemly litter has an adverse economic effect on New Jersey by making the State less attractive to tourists and new industry and residents.

The Legislature, therefore, declares it to be in the energy, environmental, and economic interests of the State of New Jersey to implement a comprehensive Statewide recycling plan and to establish a clean communities account to develop resources to be used in a litter abatement and removal pickup plan as provided for by law.

4. Section 3 of P. L. 1981, c. 278 (C. 13:1E-94) is amended to read as follows:

C. 13:1E-94 Definitions.

3. As used in this act:

a. "Department" means the State Department of Environmental Protection;

b. "Division" means the Division of Taxation in the Department of the Treasury;

c. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

d. "Litter" means any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing;

e. "Litter-generating products" means the following specific goods which are produced, distributed, or purchased in disposable containers, packages or wrappings; or which are not usually sold in packages, containers, or wrappings but which are commonly discarded in public places; or which are of an unsightly or unsanitary nature, commonly thrown, dropped, discarded, placed, or deposited by a person on public property, or on private property not owned by him:

- (1) Beer and other malt beverages;
- (2) Cigarettes and tobacco products;
- (3) Cleaning agents and toiletries;
- (4) Distilled spirits;
- (5) Food for human or pet consumption;
- (6) Glass containers sold as such;
- (7) Groceries;
- (8) Metal containers sold as such;
- (9) Motor vehicle tires;
- (10) Newsprint and magazine paper stock;
- (11) Nondrug drugstore sundry products;
- (12) Paper products and household paper;
- (13) Plastic or fiber containers made of synthetic material and sold as such, but not including any container which is routinely reused, has a useful life of more than one year and is ordinarily sold empty at retail;
- (14) Soft drinks and carbonated waters; and
- (15) Wine;

f. "Litter receptacle" means a container suitable for the depositing of litter;

g. "Municipality" means any city, borough, town, township or village situated within the boundaries of this State;

h. "Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests;

i. "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

j. "Sold within the State" or "sales within the State" means all sales of retailers engaged in business within the State and, in the case of manufacturers, wholesalers and distributors, all sales of products for use and consumption within the State. It shall be presumed that all sales of manufacturers, wholesalers and distributors sold within the State are for use and consumption within the State unless the taxpayer shows that the products are shipped out of State for out-of-State use;

k. "Tax period" means every calendar month or any other period as may be prescribed by rule and regulation adopted by the director, on the basis of which the owner or operator of a sanitary landfill facility is required to report to the director pursuant to this act;

l. "Taxpayer" means the owner or operator of a sanitary landfill facility or the manufacturer, wholesaler, distributor, or retailer of litter-generating products subject to the tax provisions of section 4 of P. L. 1981, c. 278 (C. 13:1E-95) or section 6 of P. L. 1985, c. 533 (C. 13:1E-99.1), as the case may be.

5. Section 5 of P. L. 1981, c. 278 (C. 13:1E-96) is amended to read as follows:

C. 13:1E-96 State Recycling Fund.

5. a. The State Recycling Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered jointly by the Department of Energy and the Department of Environmental Protection, and shall be credited with all tax revenue collected by the division pursuant to section 4 of P. L. 1981, c. 278 (C. 13:1E-95). Interest received on moneys in the fund and sums received as repayment of principal and interest on outstanding loans made from the fund

shall be credited to the fund. The Department of Energy and the Department of Environmental Protection, in their administration of the fund, are authorized to assign to the New Jersey Economic Development Authority the responsibility for making credit evaluations of applicants for loans, for servicing loans on behalf of the two departments, and, the provisions of any other law to the contrary notwithstanding, for making recommendations as to the approval or denial of loans pursuant to this section. The departments are further authorized to pay or reimburse the authority in the amounts as the departments jointly agree are appropriate for all services rendered by the authority in connection with any assignment of responsibility under the terms of this section out of moneys held in the fund for loans and the loan guarantee program.

b. Moneys in the fund shall be allocated and used for the following purposes and no others:

(1) Not less than 45% of the estimated annual balance of the fund shall be used for the annual expenses of a five-year program for recycling grants to municipalities. The amount of these grants shall be calculated on the basis of the total number of tons of materials annually recycled from residential and commercial sources within that municipality, except that no such grant shall exceed \$25.00 per ton of materials recycled. The departments may allocate a portion of these grant moneys as bonus grants to municipalities that demonstrate high recovery rates in their recycling programs. The departments shall issue guidelines establishing a formula defining a high recovery rate and shall announce each year the total amount of moneys available in the bonus grant fund.

To be eligible for a grant pursuant to this subsection, a municipality shall demonstrate that the materials recycled by the municipal recycling program were not diverted from a commercial recycling program already in existence on the effective date of the ordinance establishing the municipal recycling program.

To be eligible for a subsequent annual grant pursuant to this subsection, a municipality shall demonstrate that at least two types of materials are currently recycled, or will be recycled in the succeeding grant year by the municipal recycling program. No recycling grant to any municipality shall be used for constructing or operating any facility for the baling of wastepaper or for the shearing, baling or shredding of ferrous or nonferrous materials;

(2) Not less than 20% of the estimated annual balance of the fund shall be used to provide low interest loans and to establish a

sufficient reserve for a loan guarantee program for recycling businesses and industries;

(3) Not more than 10% of the estimated annual balance of the fund shall be used for State recycling program planning and program funding, including the administrative expenses thereof;

(4) Not more than 10% of the estimated annual balance of the fund shall be used for county and municipal recycling program planning and program funding, including the administrative expenses thereof; and

(5) Not less than 15% of the estimated annual balance of the fund shall be used for a public information and education program concerning recycling activities.

C. 13:1E-99.1 Tax on sales of litter-generating products.

6. (New section) a. There is levied upon each person engaged in business in the State as a manufacturer, wholesaler, or distributor of litter-generating products a tax of 3/100 of 1% (.0003) on sales of those products within the State, and each person engaged in business in the State as a retailer of litter-generating products a tax of 2.25/100 of 1% (.000225) on sales of those products within the State, except any retailer with less than \$250,000.00 in annual retail sales of litter-generating products is exempt from this tax. A sale by a wholesaler or distributor to another wholesaler or distributor, a sale by a company to another company owned wholly by the same individuals or companies, or a sale by a wholesaler or distributor owned cooperatively by retailers to those retailers is not subject to tax under this amendatory and supplementary act. For the purposes of this amendatory and supplementary act, "retailer" includes restaurants one of the principal activities of which consists of selling for consumption off the premises of the restaurant a meal or food prepared and ready to be eaten.

b. On or before October 1, 1986, or in the case of a person commencing or opening a new place of business after that date, within 30 days after the commencement or opening, every person subject to the tax imposed pursuant to this amendatory and supplementary act shall file with the director a certificate of registration on a form prescribed by the director. Any person who is registered under any law administered by the division or who is subject to and files returns under any of these laws shall not be required to comply with the provisions of this subsection.

c. Every person subject to this tax shall, on or before March 15, 1987, and on or before March 15 of each year thereafter, prepare

and file a return, under oath, for the preceding calendar year with the director on forms and containing any information as the director shall prescribe. The return shall indicate the dollar value of the sales within the State of litter-generating products and at the same time the person shall pay the full amount of tax due.

d. If a return required by this amendatory and supplementary act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from whatever information may be available. Notice of the determination shall be given to the taxpayer liable for the payment of the tax. The determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of the determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After the hearing the director shall give notice of his determination to the person to whom the tax is assessed.

e. Any taxpayer who shall fail to file his return when due or to pay any tax when the tax becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," R. S. 54:48-1 et seq. If the director determines that the failure to comply with any provision of this section was excusable under the circumstances, he may remit any part of the penalty as shall be appropriate under the circumstances.

f. (1) Any person failing to file a return, failing to pay the tax, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this amendatory and supplementary act, or rules or regulations adopted hereunder, which is willfully false, or failing to keep any records required by this amendatory and supplementary act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a crime of the fourth degree.

(2) The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this amendatory and supplementary act or rules or regulations adopted hereunder shall be presumptive evidence of a violation thereof.

g. In addition to the other powers granted by this section, the director may:

(1) Delegate to any officer or employee of his division those powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom the powers have been delegated shall possess and may exercise all of the powers and perform all of the duties delegated by the director;

(2) Prescribe and distribute all necessary forms for the implementation of this section; and

(3) Adopt any rules and regulations necessary for the implementation of this amendatory and supplementary act.

h. The tax imposed by this section shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," R. S. 54:48-1 et seq., unless otherwise provided by a specific provision of this section.

C. 13:1E-99.2 Clean Communities Account.

7. (New section) The Clean Communities Account is established as a nonlapsing, revolving fund in the Department of the Treasury to carry out the purposes of this amendatory and supplementary act. The Clean Communities Account shall be administered by the State Treasurer and credited, in addition to any appropriations made thereto, with all taxes and penalties levied or imposed pursuant to sections 6 and 10 of this amendatory and supplementary act, and any sums received as voluntary contributions from private sources. Interest received on moneys in the account shall be credited to the account. Moneys in the Clean Communities Account shall be allocated and used as provided by law.

C. 13:1E-99.3 Petty disorderly persons offense.

8. (New section) a. A person who throws, drops, discards or otherwise places any litter of any nature upon public or private property other than in a litter receptacle commits a petty disorderly persons offense. The Superior Court and every municipal court shall have jurisdiction to enforce this section. The State or any municipality may institute proceedings under this section. If a money judgment is rendered against a defendant, the payment made to the court shall be remitted to the chief financial officer of the municipality wherein the violation occurred, to be used by the municipality to help finance litter control activities in addition to or supplementing existing litter pickup and removal activities in the municipality.

b. If a person violates subsection a. of this section the court may, in addition to the penalty provided under that subsection, direct the person to perform community service, including litter pickup and removal from any public property, or any private property with permission of the owner, upon which the person deposited litter, for a term of not less than 20 hours nor more than 40 hours.

C. 13:1E-99.4 Banned containers.

9. (New section) No beverage shall be sold within the State in a metal container designed and constructed so that the container is opened by detaching a metal ring or tab, except if the tab is made of tape, foil, or other soft material; or in metal beverage containers connected to each other by a separate device made of plastic which does not decompose by photodegradation, chemical degradation, or biodegradation. For the purposes of this section, "beverage" means alcoholic beverages, including beer or other malt beverages, liquor, wine, vermouth and sparkling wine, and nonalcoholic beverages, including fruit juice, mineral water and soda water and similar nonalcoholic carbonated drinks intended for human consumption.

C. 13:1E-99.5 \$100 maximum fine.

10. (New section) Every person convicted of a violation of this amendatory and supplementary act for which no penalty is specifically provided is subject to a fine of not more than \$100.00 for each violation. If the violation is of a continuing nature, each day during which it continues constitutes a separate and distinct offense.

C. 13:1E-99.6 Tax suspension.

11. (New section) The tax imposed pursuant to section 6 of this amendatory and supplementary act shall not be due and payable if, and as long as, any State of New Jersey or federal law, or any rule or regulation adopted pursuant thereto, requiring a deposit on, or establishing a refund value for, any litter-generating products shall be in effect.

C. 13:1E-99.7 Expenditures mandated by State law.

12. (New section) Additional expenditures or incremental costs necessary and reasonably incurred by a municipality or county for the abatement and control of litter or any other antilittering activities as a direct result of the implementation of P. L. 1985, c. 533, shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered expenditures mandated by State law.

13. R. S. 39:5-41 is amended to read as follows:

Penalties to finance litter control.

39:5-41. a. All fines, penalties and forfeitures imposed and collected under authority of law for any violations of R. S. 39:4-63 and R. S. 39:4-64 shall be forwarded by the judge to whom the same have been paid to the proper financial officer of the municipality wherein the violation occurred, to be used by the municipality to help finance litter control activities in addition to or supplementing existing litter pickup and removal activities in the municipality.

b. Except as otherwise provided by subsection a. of this section, all fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, other than those violations in which the complainant is the director, a member of his staff, a member of the State Police, an inspector of the Board of Public Utilities, or a law enforcement officer of any other State agency, shall be forwarded by the judge to whom the same have been paid to the proper financial officer of the county wherein they were collected, to be used by the county as a fund for the construction, reconstruction, maintenance and repair of roads and bridges, snow removal, the acquisition and purchase of rights-of-way, and the purchase, replacement and repair of equipment for use on said roads and bridges therein. Whenever the amount of moneys to be forwarded to the counties pursuant to this section rises above the level forwarded to them in fiscal year 1980, the increase, up to the amount forwarded to the counties, shall be forwarded to the proper financial officer of the respective municipalities wherein the violations occurred, to be used by the municipalities as a fund for general municipal use and to defray the cost of operating the municipal court. When the amount of moneys forwarded to the municipalities equals the amount forwarded to the counties, any additional increase shall be paid one-half to the county wherein the funds were collected and one-half to the municipality wherein the funds were collected.

Whenever any county has deposited moneys collected pursuant to this section in a special trust fund in lieu of expending the same for the purposes authorized by this section, it may withdraw from said special trust fund in any year an amount which is not in excess of the amount expended by the county over the immediately preceding three-year period from general county revenues for said

purposes. Such moneys withdrawn from the trust fund shall be accounted for and used as are other general county revenues.

14. There is appropriated from the General Fund to the Division of Taxation in the Department of the Treasury the sum of \$225,000.00, to implement the provisions of this amendatory and supplementary act concerning the taxation of litter-generating products.

15. This act shall take effect 90 days following enactment and subsection a. of section 6 of this act shall expire December 31, 1989. However, this shall not affect any obligation, lien or duty to pay taxes which may be due with respect to the imposition of any levy, or interest or penalties which may accrue by virtue of any assessment, which may be made with respect to taxes levied for any taxable year or part of a taxable year, prior to January 1, 1990, nor shall this expiration affect the legal authority to assess and collect the taxes which may be due and payable under section 6 of P. L. 1985, c. 533 (C. 13:1E-99.1), as the case may be, together with such interest and penalties as would accrue thereon under section 6 of P. L. 1985, c. 533 (C. 13:1E-99.1), nor shall this provision invalidate any assessment or affect any proceeding for the enforcement thereof. The department and the division shall take any action necessary or appropriate for the timely implementation of this amendatory and supplementary act prior to its effective date.

Approved January 21, 1986.

CHAPTER 534

AN ACT concerning hazardous substances in the workplace, and amending and supplementing P. L. 1983, c. 315.

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

1. Section 8 of P. L. 1983, c. 315 (C. 34:5A-8) is amended to read as follows:

C. 34:5A-8 Hazardous substance fact sheets.

8. a. Upon receipt of a completed workplace survey from an employer, the Department of Health shall transmit to that employer

a hazardous substance fact sheet for each hazardous substance reported by the employer on the workplace survey. If an employer makes a trade secret claim for information on the workplace survey pursuant to section 15 of this act, the department shall transmit a hazardous substance fact sheet for that substance with the identity of the substance concealed.

b. Any employer whose workplace survey transmitted to the Department of Health pursuant to section 7 of this act indicates that no hazardous substances are present at the facility shall be exempt from the provisions of this act for that facility, except for the requirement to annually update the workplace survey pursuant to section 10 of this act, and except from the provisions of section 33 of this act. Any employer exempted from the provisions of this act pursuant to this subsection who transmits to the Department of Health an update of the workplace survey which indicates that a hazardous substance is present at the employer's facility shall immediately be subject to the provisions of this act.

C. 34:5A-26.1 Fee refund.

2. (New section) The Department of Labor shall refund any fee collected pursuant to section 26 of P. L. 1983, c. 315 (C. 34:5A-26) to any employer who has paid this fee and is exempt from the fee pursuant to section 8 of P. L. 1983, c. 315 (C. 34:5A-8).

3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 535

AN ACT concerning the sale and use of certain property by municipalities and amending P. L. 1971, c. 199.

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

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

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

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

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

In any case in which a county or municipality intends to retain an estate or interest in any real property, capital improvement or

personal property, in the nature of an easement, contingent or reversionary, the invitation to bid and the advertisement required herein shall require each bidder to submit one bid under each Option A and Option B below.

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

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

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

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

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

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

(3) A sale by any county or municipality, when it has or shall have conveyed its right, title and interest in any real property, capital improvement or personal property not needed for public use, and it was assumed and intended that there should be conveyed a good and sufficient title in fee simple to said real property, capital improvement or personal property, free of all encumbrances and the full consideration has been paid there-

for, and it shall thereafter appear that the title conveyed was insufficient or that said county or municipality at the time of said conveyance was not the owner of some estate or interest in said real property, capital improvement or personal property or some encumbrances thereon, and the county or municipality shall thereafter acquire a good and sufficient title in fee simple, free of all encumbrances of said real property, capital improvement or personal property or shall acquire such outstanding estate or interest therein or outstanding encumbrance thereon and said county or municipality, by resolution of the governing body and without the payment of any additional consideration, has deemed to convey or otherwise transfer to said purchaser, his heirs or assigns, such after-acquired title, or estate or interest in, or encumbrance upon, such real property, capital improvement or personal property to perfect the title or interest previously conveyed.

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

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

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

the terms thereof, said real property shall be free, and entirely discharged of and from such rights of the public and of the county or municipality, as the case may be, but no such release shall affect the right of lawful occupancy or use of any such real property by any municipal or private utility to occupy or use any such real property lawfully occupied or used by it.

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

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

(c) By private sale of a municipality in the following case:

A sale to a private developer by a municipality, when acting as a redevelopment agency pursuant to section 8 of P. L. 1956, c. 212 (C. 40:55C-37) or a local housing authority pursuant to section 8 of P. L. 1956, c. 211 (C. 55:14A-56). The real property or capital improvements may be made available at their use value, which represents the value (whether expressed in terms of rental or capital price) at which the municipality determines such should be made available in order that it may be developed or redeveloped for the purposes specified in the redevelopment plan formulated

in accordance with the "Redevelopment Agencies Law," P. L. 1949, c. 306 (C. 40:55C-1 et seq.) or the "Local Housing Authorities Law," P. L. 1938, c. 19 (C. 55:14A-1 et seq.), as appropriate.

Notwithstanding the provisions of any law, rule or regulation to the contrary, a private developer who has purchased real property or capital improvements pursuant to this subsection shall not convey or otherwise dispose of all or any portion of that property or those improvements without first offering the municipality which sold the property or improvements a right of first refusal to purchase the property or improvements at the price paid to the municipality by the developer. The right of first refusal granted herein shall be a condition of the original sale by the municipality, and shall be expressed in the deed or other instrument or conveyance for the property or improvements; except that if the municipality has established rules or requirements concerning the use and sale of the property or the improvements and requires as part of the sale that the use of the property or improvements is subject to those rules or requirements, the private developer may convey or otherwise dispose of the property pursuant to those rules or requirements without first offering the municipality the right of first refusal.

All sales, either public or private, may be made for cash or upon credit. A deposit not exceeding 10% of the minimum price or value of the property to be sold may be required of all bidders. When made upon credit, the county or municipality may accept a purchase-money mortgage, upon terms and conditions which shall be fixed by the resolution of the governing body; provided, however, that such mortgage shall be fully payable within five years from the date of the sale and shall bear interest at a rate equal to that authorized under Title 31 of the Revised Statutes, as amended and supplemented, and the regulations issued pursuant thereto, or the rate last paid by the county or municipality upon any issue of notes pursuant to the "Local Bond Law" (N. J. S. 40A:2-1 et seq.), whichever is higher. The governing body may, by resolution, fix the time for closing of title and payment of the consideration.

In all sales made pursuant to this section, the governing body of any county or municipality may provide for the payment of a commission to any real estate broker, or authorized representative other than the purchaser actually consummating such sale; provided, however, that no commission shall be paid unless notice of the governing body's intention to pay such a commission shall have

been included in the advertisement of sale and the recipient thereof shall have filed an affidavit with the governing body stating that said recipient is not the purchaser. Said commissions shall not exceed, in the aggregate, 5% of the sale price, and be paid, where there has been a public sale, only in the event that the sum of the commission and the highest bid price does not exceed the next highest bid price (exclusive of any real estate broker's commission). As used in this section, "purchaser" shall mean and include any person, corporation, company, association, society, firm, partnership, or other business entity owning or controlling, directly or indirectly, more than 10% of the purchasing entity.

2. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 536

AN ACT concerning the permitted use of additional hazard lights on omnibuses and amending R. S. 39:3-54.

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

1. R. S. 39:3-54 is amended to read as follows:

Warning lights on vehicles.

39:3-54. a. Any lighted lamp or illuminating device upon a motor vehicle other than a headlamp, spot lamp or auxiliary driving lamp which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle. Flashing lights are prohibited on motor vehicles, motorcycles and motor-drawn vehicles except as a means for indicating a right or left turn; provided, however, any vehicle may be equipped, and when required under this article shall be equipped, with lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped, shall display such warning in addition to any other warning signals required by law. The lamps

used to display such warning shall be of a type approved by the Director of the Division of Motor Vehicles; those used to display warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spread laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet at any time when lighted lamps are required. The two front and two rear turn signals shall be flashed simultaneously to display such warning on vehicles of the types mentioned in section 39:3-64.

b. In addition to the flashing devices permitted in subsection a. of this section, an omnibus may be equipped with two flashing devices for the purpose of warning the operators of other vehicles and law enforcement officials that an emergency situation exists within the omnibus.

These devices shall be capable of activation by the operator of the omnibus and shall be of a type approved by the Director of the Division of Motor Vehicles.

They shall be mounted one at the front and one at the rear of the omnibus and shall display flashing red lights which shine on the roadway under the vehicle.

2. This act shall take effect on the 30th day after enactment.

Approved January 21, 1986.

CHAPTER 537

AN ACT to amend the "municipal and county utilities authorities law," approved August 22, 1957 (P. L. 1957, c. 183) as said short title was amended by P. L. 1977, c. 384.

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

1. Section 6 of P. L. 1957, c. 183 (C. 40:14B-6) is amended to read as follows:

C. 40:14B-6 Reorganization of sewerage authority.

6. a. The governing body of any municipality which shall have created a sewerage authority may, by ordinance duly adopted, provide and determine that said sewerage authority shall be reorganized as a municipal authority and thereupon and thereby cause said sewerage authority to be organized as a public body corporate and politic existing under and by virtue of this act.

b. In any county which has created a sewerage authority or a county sewer authority or authorities, each such authority shall be reorganized as a county utilities authority and shall be continued as a public body corporate and politic existing under and by virtue of the municipal authorities law, P. L. 1957, c. 183 (C. 40:14B-1 et seq.). The governing body of any county wherein a sewerage authority or a county sewer authority or authorities was reorganized pursuant to this section shall record such reorganization by resolution and file such resolution with the Secretary of State pursuant to section 7 of this act (C. 40:14B-7).

c. No authority reorganized pursuant to this section shall acquire, construct, maintain, operate or improve a water system, a solid waste system or a hydroelectric system until such time as the governing body authorizes such action, by ordinance in the case of a municipality, or by resolution in the case of a county.

d. Said body shall consist of the members of said sewerage authority or of said county sewer authority holding office at the time of such organization, together with successors in such membership appointed as if said sewerage authority or county sewer authority had originally been created pursuant to section 4 of this act, and, upon the passage of this amendatory and supplementary act or upon the taking effect of such ordinance and the filing of a certified copy thereof as in section 7 of this act provided, said body shall constitute a municipal authority contemplated and provided for in this act and an agency and instrumentality of said municipality or county. Said body as such municipal authority shall have all of the rights and powers granted and be subject to all the duties and obligations imposed by this act and, subject to the rights (if any) of the holders of any bonds or other obligations of said sewerage authority or county sewer authority theretofore issued, said body shall be the successor in all respects to said sewerage authority or county sewer authority and forthwith succeed to all of the rights, property, assets and franchises of said sewerage authority or county sewer authority and the said bonds

or other obligations of said sewerage authority or county sewer authority shall be assumed by and become the obligations of said municipal authority, and the property of said sewerage authority or county sewer authority shall be vested in said municipal authority. Said body may at any time, by resolution duly adopted, change its corporate name and adopt the name and style of "the municipal utilities authority" with the name of said municipality or county inserted.

2. Section 18 of P. L. 1957, c. 183 (C. 40:14B-18) is amended to read as follows:

C. 40:14B-18 Employees of municipal authorities.

18. Every municipal authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice-chairman, who shall hold office until February 1 next ensuing and until their respective successors have been appointed and have qualified. Every municipal authority may also appoint and employ, full- or part-time, a secretary, an executive director, managerial personnel, technical advisors and experts, professional employees, and persons who shall render professional services as set forth in section 5 of P. L. 1971, c. 198 (C. 40A:11-5), as the authority may determine necessary for its efficient operations, and it shall determine their qualifications, terms of office, for periods not to exceed five years, duties and compensation and enter into contracts therefor, for periods not to exceed five years, as it deems necessary. Such municipal authority may also appoint and employ such other agents and employees as it may require and determine their duties and compensation. The provisions of this section with regard to terms shall not apply to the positions of general counsel and consulting engineer. The appointing and employing powers of the municipal authority set forth in this section shall be exercised without regard to the provisions of Title 11 of the Revised Statutes; provided, however, that any municipal authority which, prior to the effective date of this amendatory act, has accepted the jurisdiction of the Department of Civil Service, other than by reason of compliance with a court order, shall continue to be subject to the provisions of Title 11.

3. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 538

AN ACT concerning monorail transportation, amending P. L. 1983, c. 295, supplementing P. L. 1966, c. 301 (C. 27:1A-1 et seq.), 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. 1983, c. 295 is amended to read as follows:
 1. The Legislature finds and determines that:
 - a. New Jersey is one of the most densely populated states in the nation;
 - b. New Jersey's highways are overburdened with traffic; and
 - c. The establishment and development of monorail systems in the State can make a significant contribution to public transportation and ease highway congestion.
 2. Section 2 of P. L. 1983, c. 295 is amended to read as follows:
 2. There is created a commission to be known as the New Jersey Monorail Legislative Commission. The commission shall consist of 13 members, four to be appointed from the membership of the Senate by the President thereof for the member's term of office, not more than two of whom shall be from the same political party; four to be appointed from the membership of the General Assembly by the Speaker thereof for the member's term of office, not more than two of whom shall be from the same political party; the Commissioner of Transportation ex officio, or his designee; the Executive Director of the New Jersey Transit Corporation ex officio, or his designee; the Executive Director of the Port Authority of New York and New Jersey ex officio, or his designee; the President of the Delaware River Port Authority, ex officio or his designee; and the Executive Directors of the New Jersey Turnpike, Highway, and Expressway Authorities ex officio or their designees who shall serve one-year rotating terms in the following order: New Jersey Turnpike Authority, New Jersey Highway Authority, and New Jersey Expressway Authority. The toll-road authorities not represented in a particular year by having a member on the commission shall be kept apprised of the commission's activities, and shall have the opportunity for input.

3. Section 3 of P. L. 1983, c. 295 is amended to read as follows:

3. The commission shall organize as soon as may be practicable after the appointment of its members and shall select a chairman from among its legislative members and a secretary who need not be a member of the commission.

4. Section 4 of P. L. 1983, c. 295 is amended to read as follows:

4. It shall be the duty of the commission to study the various means by which monorail systems may be developed in the State, to work with the Department of Transportation and other public agencies to maximize the benefits of monorail technology, and to monitor all monorail projects.

5. Section 6 of P. L. 1983, c. 295 is amended to read as follows:

6. The commission may meet and hold hearings at a place or places it designates during the sessions or recesses of the Legislature and annually shall report its findings and recommendations to the Legislature and Governor with any legislative bills it may desire to recommend for adoption by the Legislature.

C. 27:27-1 "Monorail" defined.

6. (New section) As used in P. L. 1983, c. 295 and this 1985 amendatory and supplementary act, "monorail" means any type of transportation system in which manned or unmanned vehicles are operated on fixed guideways along an exclusive easement or right-of-way, but excluding conventional railroads.

C. 27:27-2 Transportation responsibility.

7. (New section) The Department of Transportation shall have exclusive responsibility for assisting in the development of monorail systems except where otherwise provided by law. The Commissioner of Transportation, in cooperation with State departments, commissions, authorities, and other State agencies and with interested private individuals and organizations, shall be the exclusive coordinator of plans and policies for the utilization of monorail systems under the jurisdiction of the Department of Transportation.

C. 27:27-3 Functions, powers, duties.

8. (New section) Except as otherwise provided by law, the Commissioner of Transportation shall have the following functions, powers and duties:

a. Approve or reject any proposed monorail project, including its route;

- b. Set fares for monorail systems; and
- c. Establish safety standards for the operation of monorail systems.

C. 27:27-4 Report to commission.

9. (New section) Any authority or agency proposing a monorail project and not subject to approval pursuant to subsection a. of section 8 of this act shall report to the commission its intentions concerning the proposed project.

C. 27:27-5 Rules, regulations.

10. (New section) The Commissioner of Transportation shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of sections 7 through 9 of this act.

11. (New section) In addition to the amount appropriated by P. L. 1983, c. 295, there is appropriated \$25,000.00 to the commission from the General Fund to effectuate the purposes of this act.

12. This act shall take effect immediately and shall expire on the fifth year following the date of enactment of this 1985 amendatory and supplementary act unless extended by law.

Approved January 21, 1986.

CHAPTER 539

AN ACT concerning affirmative action contracts in the casino industry and amending and supplementing P. L. 1977, c. 210.

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

C. 5:12-184 Declaration.

1. (New section) The Legislature declares that the opportunity for full minority and women's business enterprise participation in the casino industry is essential if social and economic parity is to be obtained by minority and women business persons and if the economy of Atlantic City is to be stimulated as contemplated by the "Casino Control Act," P. L. 1977, c. 210 (C. 5:12-1 et seq.).

C. 5:12-185 Definitions.

2. (New section) As used in this act:

a. "Casino licensee" means any entity which holds or is an applicant for a casino license pursuant to section 87 of P. L. 1977, c. 110 (C. 5:12-87).

b. "Minority business enterprise" means a business that is at least 51% owned and controlled by minority group members.

c. "Minority group member" means a person who is either black, Hispanic, Asian-American, American Indian or an Alaskan native.

d. "Woman" or "Women" means a female or females, regardless of race.

e. "Women's business enterprise" means a business that is at least 51% owned and controlled by women.

3. Section 63 of P. L. 1977, c. 210 (C. 5:12-63) is amended to read as follows:

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

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

a. To hear and decide promptly and in reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof, which decision, in the case of casino licensees, shall be withheld until a determination has been made by the commission that the provisions of sections 4 and 5 of P. L. 1985, c. 539 (C. 5:12-186 and 5:12-187) relating to expenditures on and assignments to minority and women's business enterprises have been met, except that if a determination is made that a casino licensee has failed to demonstrate compliance with the provisions of section 4 or 5 of P. L. 1985, c. 539, a casino licensee will have 90 days from the date of the determination of noncompliance within which to comply with the provisions of those sections;

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

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

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

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

f. To be present through its inspectors and agents at all times during the operation of any casino for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting such other investigations into the conduct of the games and the maintenance of the equipment as from time to time the commission may deem necessary and proper; and

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

C. 5:12-186 Minority, women's business contracts.

4. (New section) a. Notwithstanding the provisions of any law, rule or regulation to the contrary, no casino licensee shall expend less than 5% of its contracts for goods and services with minority and women's business enterprises by the end of the third year following the operative date of this 1985 amendatory and supplementary act; and 10% of its contracts for goods and services with minority and women's business enterprises by the end of the sixth year following the operative date of this 1985 amendatory and supplementary act; and each such licensee shall have a goal of expending 15% of its contracts for goods and services with minority and women's business enterprises by the end of the 10th year following that operative date. Each casino licensee shall be required to demonstrate annually to the commission that the requirements of this act have been met, by submitting a report which shall include the total dollar value of contracts awarded for goods or services and the percentage thereof awarded to minority and women's business enterprises.

As used in this section, "goods and services" shall not include (1) utilities and taxes; (2) financing costs, such as mortgages, loans or any other type of debt; (3) medical insurance; (4) dues and fees to the Atlantic City Casino Association; (5) fees and payments to a parent or affiliated company of the casino licensee; (6) rents and any payments as a result of a real estate transaction; and (7) gaming chips, plaques, cards, tokens, dice and slot machines.

b. In those areas where an insufficient amount of minority and women's business enterprises exists, a casino licensee shall make a

good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that such an effort was made.

c. A casino licensee may fulfill no more than 70% of its obligation or part of it under this act by requiring a vendor to set aside a portion of his contract for minority or women's business enterprises. Upon request, the licensee shall provide the commission with proof of the amount of the set-aside.

C. 5:12-187 Bus business set-aside.

5. (New section) a. No casino licensee shall assign less than 5% of its bus business with minority and women's business enterprises by the end of the third year following the operative date of this 1985 amendatory and supplementary act; and 10% of its bus business with minority and women's business enterprises by the end of the sixth year following the operative date of this 1985 amendatory and supplementary act; and each such licensee shall have a goal of expending 15% of its bus business with minority and women's business enterprises by the end of the 10th year following that operative date. Each casino licensee shall be required to demonstrate annually to the commission that the requirements of this act have been met, by submitting a report which shall include the total bus business assigned and the percentage thereof awarded to minority and women's business enterprises.

b. In those areas where an insufficient amount of minority and women's business enterprises exists, a casino licensee shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that such an effort was made.

c. A casino licensee may fulfill no more than 70% of its obligation or part of it under this act by requiring a vendor to set aside a portion of his contract for minority or women's business enterprises. Upon request, the licensee shall provide the commission with proof of the amount of the set-aside.

C. 5:12-188 Determining qualifications.

6. (New section) The Division of Development for Small Businesses and Women's and Minority Businesses in the Department of Commerce and Economic Development created pursuant to P. L., c. . . . (C.) (now pending before the Legislature as Assembly Bill No. 3448 of 1985) shall establish within 180 days of the effective date of this act reasonable regulations appropriate for determining the qualifications of minority and women's business

enterprises according to their financial ability and experience and the capital and equipment available to them pursuant to and reasonably related to the class or category of work to be performed or materials and supplies to be furnished.

C. 5:12-189 List of qualified enterprises.

7. (New section) The Division of Development for Small Businesses and Women's and Minority Businesses shall supply casino licensees with a list of those minority and women's business enterprises which it has found to be qualified. The division shall review the list annually to determine which of those minority and women's business enterprises continue to qualify. The division shall establish a procedure whereby the designation of a qualified minority and women's business enterprise may be challenged. The procedure shall include proper notice and a hearing for all parties concerned.

C. 5:12-190 Additional regulations.

8. (New section) The Division of Development for Small Businesses and Women's and Minority Businesses and the Casino Control Commission shall develop such other regulations as may be necessary to interpret and implement the provisions of this act.

9. This act shall take effect immediately but shall remain inoperative until the 90th day following the day of adoption of rules and regulations by the Division of Development for Small Businesses and Women's and Minority Businesses pursuant to section 6 of this act.

Approved January 21, 1986.

CHAPTER 540

AN ACT providing for the licensure of podiatric x-ray technologists, orthopedic x-ray technologists and urologic x-ray technologists, and amending P. L. 1981, c. 295.

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

1. Section 3 of P. L. 1981, c. 295 (C. 26:2D-26) is amended to read as follows:

C. 26:2D-26 Definitions.

3. As used in this act:

a. "Board" means the Radiologic Technology Board of Examiners created pursuant to section 5 of this act.

b. "License" means a certificate issued by the board authorizing the licensee to use equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes in accordance with the provisions of this act.

c. "Chest x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the chest area for diagnostic purposes only.

d. "Commissioner" means the Commissioner of Environmental Protection.

e. "Dental x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to intraoral radiography for diagnostic purposes only.

f. "Health physicist" means a person who is certified by the American Board of Health Physics or the American Board of Radiology in radiation physics.

g. "Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, dental hygiene, podiatry, chiropody, osteopathy or chiropractic.

h. "Radiation therapy technologist" means a person, other than a licensed practitioner, whose application of radiation on human beings is for therapeutic purposes.

i. "Diagnostic x-ray technologist" means a person, other than a licensed practitioner, whose application of radiation on human beings is for diagnostic purposes.

j. "Radiologic technologist" means any person who is licensed pursuant to this act.

k. "Radiologic technology" means the use of equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner.

l. "Podiatric x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the operation of x-ray machines as used by podiatrists on the lower leg and foot area for diagnostic purposes only.

m. "Orthopedic x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the spine and extremities for diagnostic purposes only.

n. "Urologic x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the abdomen and pelvic area for diagnostic purposes only.

2. Section 4 of P. L. 1981, c. 295 (C. 26:2D-27) is amended to read as follows:

C. 26:2D-27 X-ray technologist licenses.

4. a. Except as hereinafter provided, no person other than a licensed practitioner or the holder of a license as provided in this act shall use x-rays on a human being.

b. A person holding a license as a diagnostic x-ray technologist may use the title "licensed radiologic technologist" or the letters (LRT) (R) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed diagnostic x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed diagnostic technologist.

c. A person holding a limited license as a chest x-ray technologist may use the title "licensed chest x-ray technologist" or the letters (LRT) (C) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed chest x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed chest x-ray technologist.

d. A person holding a limited license as a dental x-ray technologist may use the title "licensed dental x-ray technologist" or the letters (LRT)(D) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed dental x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed dental x-ray technologist.

e. A person holding a license as a radiation therapy technologist may use the title "licensed therapy technologist" or (LRT) (T) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed therapy technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed therapy technologist.

f. A person holding a license as provided by this act shall use medical equipment emitting ionizing radiation on human beings only for diagnostic or therapeutic purposes on a case by case basis at the specific direction of a licensed practitioner, and only if the application of the equipment is limited in a manner hereinafter specified.

g. Nothing in the provisions of this act relating to radiologic technologists shall be construed to limit, enlarge or affect, in any respect, the practice of their respective professions by duly licensed practitioners.

h. The requirement of a license shall not apply to a hospital resident specializing in radiology, who is not a licensed practitioner in the State of New Jersey, or a student enrolled in and attending a school or college of medicine, osteopathy, chiroprody, podiatry, dentistry, dental hygiene, dental assistance, chiropractic or radiologic technology, who applies radiation to a human being while under the direct supervision of a licensed practitioner.

i. A person holding a license as a diagnostic x-ray technologist and a license as a radiation therapy technologist may use the letters (LRT) (R) (T) after his name.

j. A person holding a limited license as a podiatric x-ray technologist may use the title "licensed podiatric x-ray technologist" or the letters (LRT) (P) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply he is a licensed podiatric x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed podiatric x-ray technologist.

k. A person holding a limited license as an orthopedic x-ray technologist may use the title "licensed orthopedic x-ray technologist" or the letters (LRT) (O) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed orthopedic x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed orthopedic x-ray technologist.

l. A person holding a limited license as a urologic x-ray technologist may use the title "licensed urologic x-ray technologist" or the letters (LRT) (U) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name

that indicate or imply that he is a licensed urologic x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed urologic x-ray technologist.

3. Section 5 of P. L. 1981, c. 295 (C. 26:2D-28) is amended to read as follows:

C. 26:2D-28 Radiologic Technology Board of Examiners.

5. a. There is created a Radiologic Technology Board of Examiners, which shall be an agency of the Commission on Radiation Protection in the Department of Environmental Protection and which shall report to the commission. The board shall consist of two commission members appointed annually to the membership of the board by the chairman of the commission, and 12 additional members appointed by the Governor, with the advice and consent of the Senate. Of the members appointed by the Governor, two shall be radiologists who have practiced not less than five years; one shall be a licensed physician who has actively engaged in the practice of medicine not less than five years; one shall be a licensed dentist who has actively engaged in the practice of dentistry for not less than five years; one shall be a licensed podiatrist who has actively engaged in the practice of podiatry for not less than five years; one shall be an administrator of a general hospital with at least five years' experience; one shall be a health physicist who has practiced not less than five years; two shall be practicing radiologic technologists with at least five years of experience in the practice of radiologic technology and holders of current certificates issued pursuant to this act; two shall be members of the general public; and one shall be a representative of the department designated by the Governor pursuant to subsection c. of section 2 of P. L. 1971, c. 60 (C. 45:1-2.2); provided, however, that for the remainder of their prescribed terms the members of the x-ray technicians board created by section 4 of P. L. 1968, c. 291 (C. 45:25-4) shall constitute the membership of the board created by this section.

b. The terms of office of the members appointed by the Governor shall be three years. Vacancies shall be filled for an unexpired term only in the manner provided for the original appointment.

c. Members of the board shall serve without compensation but shall be reimbursed for their reasonable and necessary traveling and other expenses incurred in the performance of their official duties.

d. The commissioner shall designate an officer or employee of the department to act as secretary of the board, who shall not be a member of the board.

e. The board, for the purpose of transacting its business, shall meet at least once every four months at times and places fixed by the board. At its first meeting each year it shall organize and elect from its members a chairman. Special meetings also may be held at times as the board may fix, or at the call of the chairman or the commissioner. A written and timely notice of the time, place and purpose of any special meeting shall be mailed by the secretary to all members of the board.

f. A majority of the members of the board shall constitute a quorum for the transaction of business at any meeting.

4. Section 6 of P. L. 1981, c. 295 (C. 26:2D-29) is amended to read as follows:

C. 26:2D-29 Qualifications.

6. a. The board shall admit to examination for licensing any applicant who shall pay to the department a nonrefundable fee established by rule of the commission and submit satisfactory evidence, verified by oath or affirmation, that the applicant:

- (1) At the time of application is at least 18 years of age;
- (2) Is of good moral character;
- (3) Has successfully completed a four-year course of study in a secondary school approved by the State Board of Education, or passed an approved equivalency test.

b. In addition to the requirements of subsection a. hereof, any person seeking to obtain a license in a specific area of radiologic technology must comply with the following requirements:

(1) Each applicant for a license as a diagnostic x-ray technologist (LRT(R)) shall have satisfactorily completed a 24-month course of study in radiologic technology approved by the board or its equivalent, as determined by the board.

(2) Each applicant for a license as a therapy technologist (LRT(T)) shall have satisfactorily completed a 24-month course in radiation therapy technology approved by the board or the equivalent of such, as determined by the board.

(3) Each applicant for a license as a chest x-ray technologist (LRT(C)) shall have satisfactorily completed the basic curriculum for chest radiography as approved by the board or its equivalent, as determined by the board.

(4) Each applicant for a license as a dental x-ray technologist (LRT(D)) shall have satisfactorily completed the curriculum for dental radiography as approved by the board or its equivalent, as determined by the board.

(5) Each applicant for a license as a podiatric x-ray technologist (LRT(P)) shall have satisfactorily completed the basic curriculum for podiatric radiography as approved by the board or its equivalent, as determined by the board.

(6) Each applicant for a license as an orthopedic x-ray technologist (LRT(O)) shall have satisfactorily completed the basic curriculum for orthopedic radiography as approved by the board or its equivalent, as determined by the board.

(7) Each applicant for a license as a urologic x-ray technologist (LRT(U)) shall have satisfactorily completed the basic curriculum for urologic radiography as approved by the board or its equivalent, as determined by the board.

c. The board shall establish criteria and standards for programs of diagnostic or radiation therapy and approve these programs upon a finding that the standards and criteria have been met.

5. Section 7 of P. L. 1981, c. 295 (C. 26:2D-30) is amended to read as follows:

C. 26:2D-30 Training programs.

7. a. The program of diagnostic x-ray technology shall be at least a 24-month course or its equivalent, as determined by the board. The curriculum for this course may follow the Committee on Allied Health Education and Accreditation (CAHEA) standards; provided that the standards are not in conflict with board policies.

b. The program of radiation therapy technology shall be at least a 24-month course of study or its equivalent, as determined by the board. The curriculum for the course may follow the Committee on Allied Health Education and Accreditation (CAHEA) standards; provided that the standards are not in conflict with board policies.

c. The board shall establish criteria and standards for programs of chest radiography, podiatric radiography, orthopedic radiography, urologic radiography and dental radiography and approve the programs upon a finding that the standards and criteria have been met.

d. An approved program of radiologic technology may be offered by a medical or educational institution or other public or private

agency or institution, and, for the purpose of providing the requisite clinical experience, shall be affiliated with one or more hospitals that, in the opinion of the board, are likely to provide the experience.

6. Section 9 of P. L. 1981, c. 295 (C. 26:2D-32) is amended to read as follows:

C. 26:2D-32 Issuance of licenses.

9. a. The board shall issue a license to each candidate who has either successfully passed the examination, or who has paid the prescribed fee and has qualified under subsection d., e. or f. of section 8 of this act.

b. The board may, in its discretion, issue a limited license to any applicant who does not qualify, by reason of a restricted area or duration of training and experience, for the issuance of a license under the provisions of section 7 or 9 of this act, but who has demonstrated to the satisfaction of the board by examination that he is capable of performing the functions of a radiologic technologist in chest x-ray technology or of acting as a dental x-ray technologist, orthopedic x-ray technologist, urologic x-ray technologist or podiatric x-ray technologist. A limited license shall specify the activities that its holder may engage in, and shall be issued only if the board finds that its issuance will not violate the purposes of this act or tend to endanger the public health and safety.

c. The board may, in its discretion, issue a temporary license to any person whose license or relicensure may be pending and in whose case the issuance of a temporary license may be justified by reason of special circumstances. A temporary license shall be issued only if the board finds that its issuance will not violate the purposes of this act or tend to endanger the public health and safety. A temporary license shall expire 90 days after the date of the next examination, if the applicant is required to take the same, or, if the applicant does not take the examination, then on the date of the examination. In all other cases, a temporary license shall expire when the determination is made either to issue or deny the applicant a regular license and in no event shall a temporary license be issued for a period longer than 180 days.

d. Every radiologic technologist shall carry his current license on his person at work. The license shall be displayed on request.

7. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 541

AN ACT concerning county and municipal libraries, amending R. S. 40:54-8, R. S. 40:54-15, R. S. 40:33-7, and R. S. 40:33-8, and supplementing chapter 33 of Title 40 of the Revised Statutes.

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

1. R. S. 40:54-8 is amended to read as follows:

Library tax.

40:54-8. The governing body or appropriate board of every municipality governed by this article shall annually appropriate and raise by taxation a sum equal to one-third of a mill on every dollar of assessable property within such municipality based on the equalized valuation of such property as certified by the Director of the Division of Taxation in the Department of the Treasury.

Such additional sum, as in the judgment of such body or board is necessary for the proper maintenance of a free public library, may be appropriated and raised by taxation, annually.

2. R. S. 40:54-15 is amended to read as follows:

Annual report.

40:54-15. The board of trustees shall make an annual report to the chief financial officer of the municipality which shall include a statement setting forth in detail all public revenues received by the library, all State aid received by the library, all expenditures made by the library and the balance of funds available. The annual report shall also include an analysis of the state and condition of the library and shall be sent to the municipal governing body and to the Division of State Library, Archives and History in the Department of Education. The division shall prescribe by regulation the form of all such reports.

3. R. S. 40:33-7 is amended to read as follows:

County library commission.

40:33-7. a. Should the governing body not enter into the contract provided for in R. S. 40:33-6, it shall within 60 days after this article becomes operative, appoint a commission to be known as "the county library commission." The commission shall consist

of five members except as provided below. On the first commission one member shall be appointed for one year; one for two years; one for three years; one for four years and one for five years, and thereafter all appointments shall be for terms of five years, except in the case of appointments to fill vacancies occurring other than by expiration of term, which vacancies shall be filled in the same manner as appointments are made, but for the unexpired terms only. The county library commission shall serve without compensation.

b. The governing body of any county that has a county library commission with fewer than three members who are residents of municipalities supporting the county library system shall increase the size of its commission to seven members. Additional members shall be residents of municipalities that support the county library system, serve for terms of five years and have the same powers and duties as other members of the commission. Within five years of the effective date of this act each county library shall have a majority of members who are residents of municipalities which support the county library system.

4. R. S. 40:33-8 is amended to read as follows:

Powers; duties.

40:33-8. The county library commission shall organize by the election of a chairman, and shall adopt rules and regulations for the establishment and maintenance of the county library. It shall employ a librarian, if any, as may be required, who shall hold appropriate certificates issued by the State Board of Examiners and such other employees as it shall deem necessary for the performance of its functions. It may purchase such supplies and equipment and incur such expenses as it may deem necessary to carry out the provisions of this article, but shall not incur expenses or make purchases in any fiscal year from public funds in excess of the appropriation for county library purposes for that year. In addition to its other powers, it may accept gifts, devises, legacies and bequests of property, real and personal, and hold and use the property and income of the same in any manner which is lawful and consistent with the purpose for which the commission is created, and with the provisions of the conveyance, will or other instrument in or under which such gift, devise, legacy or bequest is made and may dispose of the same, subject to the same conditions. It shall make an annual report to the financial officer of the county which shall include a statement setting forth in detail all county

appropriations made to the library, other public revenues received by the library, all State aid received by the library, all expenditures made by the library and the balance of funds available. The report shall also include an analysis of the state and condition of the library and shall be sent to the county governing body and to the Division of State Library, Archives and History in the Department of Education. The division shall prescribe by regulation the form of all such reports.

C. 40:54-8.1 Tax increase "cap."

5. (New section) Any increase in the amount raised by taxation for the municipal library as required by R. S. 40:54-8 shall not exceed the total amount expended by the municipality in the previous year plus 15% of the previous year's total expenditures for the maintenance of a free public library; except that the director of the Division of State Library, Archives and History in the Department of Education is authorized to approve additional appropriations to any municipality that requests to appropriate an amount in excess of 15% of the previous year's total library expenditures.

C. 40:33-13a Withdrawal from county system.

6. (New section) Any municipality which is a member of a county library system, not exempted as provided hereafter, may withdraw from that system by resolution of the governing body adopted after a public hearing held thereon. Within 30 days of the adoption of such resolution, the municipal governing body shall provide the county governing body with notice of its intent to withdraw from the county library system. Such notice shall not become effective until January 1 of the year following the year in which the notice was given and shall provide that the municipality remain a member of the county library system for two years after the effective date of the notice.

Any municipality which withdraws from the county library system and which fails to comply with the provisions of this section shall be required to provide the county library with financial support in the manner provided in chapter 33 of Title 40 of the Revised Statutes for a period of two years from the year of the municipality's withdrawal from the system.

This section shall not apply to any county library system reorganized under the provisions of P. L. 1977, c. 300 (C. 40:33-15 et seq.) or P. L. 1963, c. 46 (C. 40:33-5.1 et seq.).

C. 40:33-13b Referendum.

7. (New section) Any municipality which is a member of a county library system pursuant to R. S. 40:33-1 on the effective date of this amendatory and supplementary act shall continue as a member of the county library system unless the governing body of the municipality determines by resolution to propose withdrawing from that system.

Following the adoption of that resolution and after a public hearing held thereon the governing body shall cause the question of withdrawal from the county library system to be submitted to the legal voters of the municipality at an election to be held in the manner provided for the establishment of free public libraries pursuant to R. S. 40:54-1 et seq.

The question shall be submitted in the following form:

“If in favor of the public question printed below mark a cross (×) or plus (+) in the square at the left of the word YES, and if opposed to the public question printed below mark a cross (×) or plus (+) at the left of the word NO.

	Yes.	“Shall (name of municipality) withdraw from the county library system pursuant to P. L. 1985, c. 541 and establish a free public library pursuant to the provisions of chapter 54 of Title 40 of the Revised Statutes?”
	No.	

If a majority of the voters approve the withdrawal from the county library system, the municipal governing body shall provide the county governing body with notice of its intent to withdraw from the county library system. Such notice shall not become effective until January 1 of the year following the year in which the notice was given and shall provide that the municipality remain a member of the county library system for two years after the effective date of the notice.

Any municipality which withdraws from the county library system and which fails to comply with the provisions of this section shall be required to provide the county library with financial support in the manner provided in chapter 33 of Title 40 of the Revised Statutes for a period of two years from the year of the municipality’s withdrawal from the system.

Nothing in this section shall prevent a municipality from establishing a municipal free public library pursuant to chapter 54 of Title 40 of the Revised Statutes.

8. This act shall take effect immediately.

Approved January 21, 1986.

CHAPTER 542

AN ACT creating a commission to study and make recommendations concerning the emergency response system in the State of New Jersey, including the provision of enhanced 9-1-1 emergency telephone service, 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. The provision of emergency services, such as police, fire, rescue and medical services, is a subject which merits study by the Legislature in order to improve and facilitate the provision of these services;

b. These services should be provided as part of a coordinated emergency response system in which the State, regional, county and municipal components, as well as volunteer and private entities, have appropriate roles to play;

c. With current highly sophisticated communications systems already in use in other states, it is appropriate to consider the matter of the creation of an enhanced 9-1-1 emergency telephone system for the State of New Jersey in order to provide the most efficient response to requests for emergency services;

d. Therefore, it is in the public interest to create an Emergency Response System Study Commission to study and make recommendations concerning appropriate legislation to create a Statewide enhanced 9-1-1 emergency telephone system; and to study and make recommendations concerning the emergency response system in the State with a view to improving and facilitating the provision of emergency service, to better coordinating the components of such a system, and to remedying defects in the present system.

2. There is created an Emergency Response System Study Commission to consist of 17 members to be appointed as follows: a. two shall be members of the Senate appointed by the President thereof, one of whom upon recommendation of the Majority Leader thereof and one of whom upon recommendation of the Minority Leader thereof; b. two shall be members of the General Assembly appointed by the Speaker thereof, one of whom upon recommendation of the Majority Leader thereof and one of whom upon recommendation of the Minority Leader thereof; and c. 13 members appointed by the Governor, with the advice and consent of the Senate, as follows: one representative of the Fire Fighters' Association of New Jersey, one representative of the New Jersey First Aid Council, one representative of the American Heart Association, one representative of the New Jersey Chiefs of Police Association, one representative of the State Police, two representatives of the Associated Public-Safety Communications Officers Inc. (APCO), one representative of the New Jersey Bell Telephone Company, one representing the independent telephone companies, one representative of the Board of Public Utilities, one representative of the Governor's Office of Policy and Planning, an elected municipal official, and a member of the Board of Chosen Freeholders of a county. When appointing the 13 members, due consideration shall be given by the Governor to the nonpartisan subject matter under consideration by the commission.

The initial members shall be appointed within 30 days of the effective date of this act. All members shall serve without compensation. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

3. It shall be the duty of the commission to study and make recommendations concerning: a. appropriate legislation to create a State-wide enhanced 9-1-1 emergency telephone system; and b. the emergency response system in the State with a view to improving and facilitating the provision of emergency services, to better coordinating the components of such a system, and to remedying defects in the present system.

The work of the commission shall be divided into two phases. The first phase, which shall be completed in not more than 90 days from the organization of the commission, shall consist of an examination of the matter of the enhanced 9-1-1 emergency telephone system as outlined in the first paragraph of this section. The

commission shall hold at least one public hearing in the northern, central and southern parts of this State, in order to receive the views of interested parties concerning this matter. The central part of the State shall encompass the counties of Mercer, Middlesex, Monmouth and Ocean. The commission shall also consider in its deliberations Assembly Bill No. 3741 of 1985 and Senate Bill No. 3139 of 1985, and any amendments thereto or substitute bills therefor proposed by the sponsors. Upon the completion of its deliberations it shall, within the 90-day period, report its recommendations to the Governor and Legislature with proposed legislation it recommends for adoption by the Legislature to create a Statewide enhanced 9-1-1 emergency telephone system.

The second phase, which shall not be commenced until the recommendations with proposed legislation under the first phase shall have been reported to the Governor and Legislature, shall consist of an examination of the matter of the emergency response system as outlined in the first paragraph of this section. The commission shall report its findings and recommendations concerning this matter to the Governor and the Legislature with any proposed legislation it may desire to recommend for adoption by the Legislature, no later than nine months following the initiation of the second phase.

4. The commission shall organize as soon after the appointment of its members as is practicable. The commission shall elect a chairman from among its members and the chairman shall appoint a secretary, who need not be a member of the commission.

5. The commission shall be entitled to call to its assistance and avail itself of the services of such 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, and to employ such stenographic and clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

6. The commission may meet and hold hearings at a place or places it designates during the sessions or recesses of the Legislature.

7. There is appropriated \$35,000.00 to the commission from the General Fund to effectuate the purposes of this act.

8. This act shall take effect immediately and shall expire on the 30th day after the submission by the commission of its report and recommendations under the second phase of its work.

Approved January 21, 1986.

CHAPTER 543

AN ACT concerning employers covered under the "Worker and Community Right to Know Act," and amending P. L. 1983, c. 315.

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

1. Section 3 of P. L. 1983, c. 315 (C. 34:5A-3) is amended to read as follows:

C. 34:5A-3 Definitions.

3. As used in this act:

a. "Chemical Abstracts Service number" means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

b. "Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

c. "Common name" means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

d. "Container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. "Container" shall not include process containers.

e. "Council" means the Right to Know Advisory Council created pursuant to section 18 of this act.

f. "County health department" means a county health agency established pursuant to P. L. 1975, c. 329 (C. 26:3A2-1 et seq.),

or the office of a county clerk in a county which has not established a department.

g. "Employee representative" means a certified collective bargaining agent or an attorney whom an employee authorizes to exercise his rights to request information pursuant to the provisions of this act, or a parent or legal guardian of a minor employee.

h. "Employer" means any person or corporation in the State engaged in business operations which has a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget, within the following Major Group Numbers, Group Numbers, or Industry Numbers, as the case may be: Major Group Number 07 (Agricultural Services), only Industry Number 0782-Lawn and Garden Services; Major Group Numbers 20 through 39 inclusive (manufacturing industries); Major Group Number 45 (Transportation by Air), only Industry Number 4511-Air Transportation, Certified Carriers, and Group Number 458 Air Transportation Services; Major Group Number 46 (Pipelines, Except Natural Gas); Major Group Number 47 (Transportation Services), only Group Numbers 471-Freight Forwarding, 474-Rental of Railroad Cars, and 478-Miscellaneous Services Incidental to Transportation; Major Group Number 48 (Communication), only Group Numbers 481-Telephone Communication, and 482-Telegraph Communication; Major Group Number 49 (Electric, Gas and Sanitary Services); Major Group Number 50 (Wholesale Trade-Durable Goods), only Industry Numbers 5085-Industrial Supplies, 5087-Service Establishment Equipment and Supplies, and 5093-Scrap and Waste Materials; Major Group Number 51 (Wholesale Trade, Nondurable Goods), only Group Numbers 512-Drugs, Drug Proprietaries and Druggist's Sundries, 516-Chemicals and Allied Products, 517-Petroleum and Petroleum Products, 518-Beer, Wine and Distilled Alcoholic Beverages, and 519-Miscellaneous Nondurable Goods; Major Group Number 55 (Automobile Dealers and Gasoline Service Stations), only Group Numbers 551-Motor Vehicle Dealers (New and Used), 552-Motor Vehicle Dealers (Used Only), and 554-Gasoline Service Stations; Major Group Number 72 (Personal Services), only Industry Numbers 7216-Dry Cleaning Plants, Except Rug Cleaning, 7217-Carpet and Upholstery Cleaning, and 7218-Industrial Launderers; Major Group Number 73 (Business Services), only Industry Number 7397 Commercial Testing Laboratories; Major Group Number 75 (Automotive Repair,

Services, and Garages), only Group Number 753-Automotive Repair Shops; Major Group Number 76 (Miscellaneous Repair Services), only Industry Number 7692-Welding Repair; Major Group Number 80 (Health Services), only Group Number 806-Hospitals; and Major Group Number 82 (Educational Services), only Group Numbers 821-Elementary and Secondary Schools and 822-Colleges and Universities, and Industry Number 8249-Vocational Schools. Except for the purposes of section 26 of this act, "employer" means the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof.

i. "Environmental hazardous substance" means any substance on the environmental hazardous substance list.

j. "Environmental hazardous substance list" means the list of environmental hazardous substances developed by the Department of Environmental Protection pursuant to section 4 of this act.

k. "Environmental survey" means a written form prepared by the Department of Environmental Protection and transmitted to an employer, on which the employer shall provide certain information concerning each of the environmental hazardous substances at his facility, including, but not limited to, the following:

(1) The chemical name and Chemical Abstracts Service number of the environmental hazardous substance;

(2) A description of the use of the environmental hazardous substance at the facility;

(3) The quantity of the environmental hazardous substance produced at the facility;

(4) The quantity of the environmental hazardous substance brought into the facility;

(5) The quantity of the environmental hazardous substance consumed at the facility;

(6) The quantity of the environmental hazardous substance shipped out of the facility as or in products;

(7) The maximum inventory of the environmental hazardous substance stored at the facility, the method of storage, and the frequency and methods of transfer;

(8) The total stack or point-source emissions of the environmental hazardous substance;

(9) The total estimated fugitive or nonpoint-source emissions of the environmental hazardous substance;

(10) The total discharge of the environmental hazardous substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings;

(11) The total discharge of the environmental hazardous substance into publicly owned treatment works;

(12) The quantity, and methods of disposal, of any wastes containing an environmental hazardous substance, the method of on-site storage of these wastes, the location or locations of the final disposal site for these wastes, and the identity of the hauler of the wastes.

l. "Facility" means the building, equipment and contiguous area at a single location used for the conduct of business. Except for the purposes of subsection c. of section 13, section 14, and subsection b. of section 25 of this act, "facility" shall not include a research and development laboratory.

m. "Hazardous substance" means any substance, or substance contained in a mixture, included on the workplace hazardous substance list developed by the Department of Health pursuant to section 5 of this act, introduced by an employer to be used, studied, produced, or otherwise handled at a facility. "Hazardous substance" shall not include:

(1) Any article containing a hazardous substance if the hazardous substance is present in a solid form which does not pose any acute or chronic health hazard to an employee exposed to it;

(2) Any hazardous substance constituting less than 1% of a mixture unless the hazardous substance is present in an aggregate amount of 500 pounds or more at a facility;

(3) Any hazardous substance which is a special health hazard substance constituting less than the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture; or

(4) Any hazardous substance present in the same form and concentration as a product packaged for distribution and use by the general public to which an employee's exposure during handling is not significantly greater than a consumer's exposure during the principal use of the toxic substance.

n. "Hazardous substance fact sheet" means a written document prepared by the Department of Health for each hazardous substance and transmitted by the department to employers pursuant to the provisions of this act, which shall include, but not be limited to, the following information:

(1) The chemical name, the Chemical Abstracts Service number, the trade name, and common names of the hazardous substance;

(2) A reference to all relevant information on the hazardous substance from the most recent edition of the National Institute for Occupational Safety and Health's Registry of Toxic Effects of Chemical Substances;

(3) The hazardous substance's solubility in water, vapor pressure at standard conditions of temperature and pressure, and flash point;

(4) The hazard posed by the hazardous substance, including its toxicity, carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity and reactivity, including specific information on its reactivity with water;

(5) A description, in nontechnical language, of the acute and chronic health effects of exposure to the hazardous substance, including the medical conditions that might be aggravated by exposure, and any permissible exposure limits established by the federal Occupational Safety and Health Administration;

(6) The potential routes and symptoms of exposure to the hazardous substance;

(7) The proper precautions, practices, necessary personal protective equipment, recommended engineering controls, and any other necessary and appropriate measures for the safe handling of the hazardous substance, including specific information on how to extinguish or control a fire that involves the hazardous substance; and

(8) The appropriate emergency and first aid procedures for spills, fires, potential explosions, and accidental or unplanned emissions involving the hazardous substance.

o. "Label" means a sign, emblem, sticker, or marker affixed to or stenciled onto a container listing the information required pursuant to section 14 of this act.

p. "Mixture" means a combination of two or more substances not involving a chemical reaction.

q. "Process container" means a container, excluding a pipeline, the content of which is changed frequently; a container of 10 gallons or less in capacity, into which substances are transferred from labeled containers, and which is intended only for the immediate use of the employee who performs the transfer; a container on which a label would be obscured by heat, spillage or other factors;

or a test tube, beaker, vial, or other container which is routinely used and reused.

r. "Research and development laboratory" means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which hazardous substances or environmental hazardous substances are used by or under the direct supervision of a technically qualified person.

s. "Special health hazard substance" means any hazardous substance on the special health hazard substance list.

t. "Special health hazard substance list" means the list of special health hazard substances developed by the Department of Health pursuant to section 5 of this act for which an employer may not make a trade secret claim.

u. "Trade secret" means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to an employer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors. In determining whether a trade secret is valid pursuant to section 15 of this act, the Department of Health, or the Department of Environmental Protection, as the case may be, shall consider material provided by the employer concerning (1) the extent to which the information for which the trade secret claim is made is known outside the employer's business; (2) the extent to which the information is known by employees and others involved in the employer's business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information, to the employer or the employer's competitor; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

v. "Trade secret registry number" means a code number temporarily or permanently assigned to the identity of a substance in

a container by the Department of Health pursuant to section 15 of this act.

w. "Trade secret claim" means a written request, made by an employer pursuant to section 15 of this act, to withhold the public disclosure of information on the grounds that the disclosure would reveal a trade secret.

x. "Workplace hazardous substance list" means the list of hazardous substances developed by the Department of Health pursuant to section 5 of this act.

y. "Workplace survey" means a written document, prepared by the Department of Health and completed by an employer pursuant to this act, on which the employer shall report each hazardous substance present at his facility.

2. This act shall take effect immediately, except that in the case of an employer required to comply with the provisions of P. L. 1983, c. 315 (C. 34:5A-1 et al.) pursuant to section 1 of this amendatory act, this act shall take effect 270 days following enactment. The Department of Environmental Protection, Department of Health, and Department of Labor shall take any action necessary for the timely implementation of this act prior to its effective date.

Approved January 21, 1986.

JOINT RESOLUTIONS

(2219)

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION requesting the United States Department of Defense and Department of the Navy to provide information necessary to enable State and local disaster-control authorities to make adequate plans for dealing with the possibility of a nuclear accident at the Earle Naval Station in Monmouth county.

WHEREAS, Efforts of State and local disaster-control authorities to foresee and provide against the consequences of a possible nuclear accident involving weapons which are or may be stored at the Earle Naval Station, Monmouth county, have been frustrated by the refusal of cooperation and relevant information by naval authorities; and

WHEREAS, It appears that this refusal is based upon Navy Department policy to eschew, for security reasons, any comment or release of information that would tend to either confirm or deny the presence of nuclear devices in any particular location; and

WHEREAS, It further appears that the type of information and guidance required by local disaster-control planners in order to plan intelligently for the contingency of a nuclear accident does not depend upon any factual disclosure as to current or future intentions of the Navy regarding actual location of nuclear weapons; and

WHEREAS, Accordingly, it should be possible for the naval authorities to furnish local disaster-control organizations with necessary information and guidance, on a hypothetical basis, regarding the equipment and resources necessary to be deployed, and the personnel, skills and methods required, to deal with a nuclear accident of the type that those organizations should, by the nature of their duties, be reasonably expected to anticipate and deal with; now, therefore,

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

1. The United States Department of Defense and Department of the Navy are hereby requested to cooperate with New Jersey State, county and local disaster-control officials to the extent of sharing with them such necessary information, exclusive of those matters regarding actual deployment of weapons which may be precluded by considerations of national security and strategic necessity, as may enable those officials to fulfill their duties with regard to planning for any possible eventuality of nuclear accident arising at the Earle naval installation in Monmouth county.

2. Upon the taking effect of this joint resolution the Secretary of State shall forthwith transmit duly authenticated copies thereof to the Honorable Caspar W. Weinberger, United States Secretary of Defense, and the Honorable John Lehman, Secretary of the Navy, and to each of the United States senators and members of the House of Representatives elected from this State.

3. This joint resolution shall take effect immediately.

Approved February 23, 1985.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION designating the week of March 17 through March 23, 1985, as "Poison Prevention Week" in New Jersey.

WHEREAS, The theme for the 1985 campaign of National Poison Prevention Week is once again "Children Act Fast . . . So Do Poisons"; and

WHEREAS, All citizens of New Jersey should be made aware of the ever-present dangers posed by potentially poisonous household and industrial substances; and

WHEREAS, Children are too often permitted access to commonly used drugs, medicines, and toxic household products such as polishes, cleaners, lighter fluids, antifreeze, and paint solvents, and every year there are a substantial number of accidental poisonings, especially among young children; and

WHEREAS, The informational and educational achievements of the annual Poison Prevention Week programs have been instrumental in awakening individuals to the need for poison prevention; and

WHEREAS, The State Department of Health has been working with its local government counterparts and other Statewide organizations in programs to inform the people of the State about the hazards of accidental poisoning, and, pursuant to the enactment of P. L. 1982, c. 177 (C. 26:2-119 et seq.), has established the New Jersey Poison Information and Education System, a poison control and drug information program which provides services on a 24 hour basis to the residents of every county; now, therefore,

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

1. The week of March 17 through March 23, 1985 is formally designated as "Poison Prevention Week" in the State of New Jersey.

2. The Governor, by appropriate proclamation, shall so proclaim the week of March 17 through March 23, 1985 as "Poison Prevention Week."

3. The Governor shall call upon the appropriate agencies of State and local government and private organizations to continue their efforts to publicize and combat poisoning hazards and emphasize the need to use properly child-resistant packaging for medicines and potentially hazardous household products.

4. This joint resolution shall take effect immediately.

Approved March 26, 1985.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION directing the Commissioner of Health to study the feasibility of establishing a residential care facility for patients of Huntington's Disease.

WHEREAS, Huntington's Disease is an inherited neurological degenerative disease which usually affects a person between the ages of 35 and 45 and has a duration of about 15 to 20 years, during which there is a very slow diminishing of an individual's capacity to function independently; and

WHEREAS, In New Jersey there are approximately 450 persons affected with Huntington's Disease and an estimated 4,000 persons at risk of developing the disease; and

WHEREAS, In 1979 the Huntington's Disease Family Service Center was established at the University of Medicine and Dentistry of New Jersey to provide comprehensive services to Huntington's Disease patients and their families in the community; and

WHEREAS, While most Huntington's Disease patients are cared for at home for as long as possible, during the latter stages of the disease intensive care in a residential facility is usually necessary due to the patient's increasing lack of motor control and coordination; and

WHEREAS, In New Jersey there is no facility which provides the appropriate specialized residential care the Huntington's Disease patient requires; now, therefore,

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

1. The Commissioner of Health, in consultation with the Commissioner of Human Services, is directed to conduct a study of the feasibility of establishing a residential care facility for patients of Huntington's Disease which provides for the specialized psychological and physical needs of these patients.

2. The Commissioner of Health shall submit his findings to both houses of the Legislature and the Governor no later than three months following the effective date of this joint resolution.

3. This joint resolution shall take effect immediately.

Approved April 12, 1985.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION designating May 25, 1985 as "Missing Children Day" in New Jersey.

WHEREAS, It has been estimated that each year, nationwide, upwards of 1,800,000 children are missing from their homes for periods of 24 hours or longer; and in New Jersey the State police report that 72% of all missing-persons cases involve juveniles—a yearly toll of approximately 4,320 children and youths, the greatest number being in the 14 to 16 age bracket; and

WHEREAS, While by far the largest category of missing children consists of those termed "runaways," of whom about 90% return home within 48 hours, it is estimated that each year some 50,000, including both runaways and victims of abduction, become permanently missing, and vulnerable to the hazards of abuse, deprivation and degradation; and

WHEREAS, In recent years there has arisen an awareness and growing concern regarding the extent and severity of the problem of missing children, and of the inadequacy of existing law-enforcement and other governmental institutions, both state and federal, to deal effectively with the problem; and in this State the Legislature has recently established a special commission to conduct an examination and present recommendations for governmental action in this matter; and

WHEREAS, In the growing movement to improve our society's capacity to deal with this problem, the case of Etan Patz, who disappeared on May 25, 1979, at the age of six, and has never been found, has assumed symbolic importance as representative of numerous similar tragedies, and that date has heretofore been

designated, by presidential proclamation and by joint resolution of the Congress, as "Missing Children Day" nationwide; now, therefore,

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

1. May 25, 1985 is formally designated as "Missing Children Day" in the State of New Jersey.

2. The Governor is authorized and requested to issue his proclamation calling upon all government agencies, appropriate private agencies and associations, and individual citizens of the State to observe "Missing Children Day" with appropriate ceremonies, programs and activities.

3. This joint resolution shall take effect immediately.

Approved May 23, 1985.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION designating the new State Police Station in Troop "B", Hope township, Warren county, New Jersey as the "Lieutenant Lester A. Pagano Building."

WHEREAS, Lieutenant Lester A. Pagano died in the line of duty as a result of a motor vehicle accident on Route 80 in Morris county on July 19, 1983; and

WHEREAS, His dedication to the highest standards and ideals of the Division of State Police and his sense of duty, along with the experience and distinguished service record he carried forward with him from the United States Air Force and Marine Corps, gained him both the highest award given by the State Police in 1961, the Distinguished Service Medal, for displaying personal bravery and self-sacrifice far above and beyond the call of duty during an exchange of gunfire in 1959 with a suspect later convicted of a brutal murder, and the informal acknowledgment as a tenacious and inspirational leader by his contemporaries and peers; and

WHEREAS, Notwithstanding the debilitating gunshot wound he received in the 1959 ordeal, he continued to serve the citizens of the State of New Jersey honorably and faithfully; now, therefore,

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

1. That the New Jersey State Police Station located on County Route 521, Hope township, Warren county, New Jersey is designated the "Lieutenant Lester A. Pagano Building."

2. That the Superintendent of State Police is authorized to post appropriate placards bearing the designation "Lieutenant Lester A. Pagano Building."

3. This joint resolution shall take effect immediately.

Approved June 27, 1985.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION requesting the United States Environmental Protection Agency to take appropriate measures in determining a nationwide system of containment of gasoline vapor controls in an efficient, economical and practical way.

WHEREAS, New Jersey, along with other states, has filed its State Implementation Plan (SIP) for the attainment of the ozone standard; and

WHEREAS, In order to make significant progress toward attaining the ozone air quality standard by year-end 1987—as presently required under the federal Clean Air Act—states such as New Jersey have indicated, in draft regulations, proposals for adoption by year-end 1985, the intention to control gasoline vapors emitted at service stations; and

WHEREAS, The United States Environmental Protection Agency has published "Regulatory Strategies for the Gasoline Marketing Industry," which appeared in the Federal Register of August 8, 1984, that details five control strategy options that make use of

two alternative technologies, an improved carbon canister system for onboard vehicles and special equipment on service station pumps; and

WHEREAS, States, such as New Jersey, have an important role in the regulatory debate because the nature and type of controls adopted will have a direct impact on air quality, motorists, and the economy of the State; and

WHEREAS, The State of New Jersey declares that if the United States Environmental Protection Agency decides that further gasoline vapor controls are required, vehicle onboard controls nationwide constitute an efficient, economical and practical solution; now, therefore,

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

1. Given the options and implications, the New Jersey Legislature and the Governor of the State of New Jersey respectfully request that the United States Environmental Protection Agency mandate nationwide onboard control systems, with appropriate credit to states, to achieve the ambient air quality standards for ozone as soon as possible.

2. Present federal law and regulations could well result in the adoption of two different systems with the same purpose, proving unnecessarily expensive and representing minimal improvement in environmental quality.

3. That duly authenticated copies of this joint resolution shall be transmitted forthwith to the New Jersey Department of Environmental Protection and the United States Environmental Protection Agency.

4. That the sentiments expressed in this joint resolution shall be transmitted to the National Conference of State Legislatures, the Coalition of Northeastern Governors, and the Council of State Governments for consideration and adoption by their appropriate bodies.

5. This joint resolution shall take effect immediately.

Approved July 31, 1985.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION designating the new beneficial insect laboratory in Trenton as the Phillip Alampi Laboratory.

WHEREAS, A program of integrated pest management in the service of crop and health protection has been successfully conducted by the New Jersey Department of Agriculture since 1923; and

WHEREAS, Phillip Alampi, who served as New Jersey's Secretary of Agriculture for twenty-six years under five governors, has, through the Division of Plant Industry, significantly increased the knowledge and public awareness of the benefits of such integrated pest management with beneficial insects, not only in New Jersey but throughout the world; and

WHEREAS, These pest management programs have assisted not only farmers, but all the citizens of the State through the breeding and rearing of countless beneficial insects in the New Jersey Department of Agriculture Laboratories; and

WHEREAS, This work has helped make New Jersey the world leader in this vital and growing field of integrated pest management and beneficial insect rearing; and

WHEREAS, Secretary Alampi has tirelessly supported all efforts to build additional laboratories in Trenton, and, through dedication and his unique powers of persuasion, has secured the funding which led to the expansion of these additional laboratories; and

WHEREAS, It is fitting that the State now pay tribute to Phillip Alampi for his pioneering work in, and unflagging devotion to, the cause of developing integrated pest management programs and techniques; now, therefore,

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

1. The new beneficial insect laboratory in Trenton is designated the Phillip Alampi Laboratory.
2. This joint resolution shall take effect immediately.

Approved August 2, 1985.

JOINT RESOLUTION No. 8

A JOINT RESOLUTION directing the Attorney General to take whatever action he deems necessary to delay the implementation in the State of the Supreme Court's holding in *Aguilar v. Felton*,

WHEREAS, On July 1, 1985 the United States Supreme Court in the case of *Aguilar v. Felton*, No. 84-237, 87 L. Ed. 2nd 290, held that the instructional services under chapter 1 of the Education Consolidation and Improvement Act of 1981 cannot be provided on the premises of religiously affiliated private schools; and

WHEREAS, The State does not have sufficient time for the proposal and approval of an alternative plan for providing chapter 1 services to private school children; and

WHEREAS, The Secretary of the United States Department of Education stated in his August 15, 1985 letter to the New Jersey Commissioner of Education that "This department will support local and State agencies in litigation, who have good grounds for requesting necessary delays in implementing the Supreme Court's decision"; and

WHEREAS, New Jersey has good grounds for requesting a delay in the implementation of the Supreme Court's decision in *Aguilar v. Felton*; now, therefore,

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

1. That the Attorney General is directed to take whatever actions he deems necessary, including the commencement of litigation, to delay the implementation in the State of the Supreme Court's decision in the case of *Aguilar v. Felton*, No. 84-237, 87 L. Ed. 2nd 290, until the proposal and approval of an alternative plan for providing chapter 1 services to private school children.

2. This joint resolution shall take effect immediately.

Approved October 10, 1985.

JOINT RESOLUTION No. 9

A JOINT RESOLUTION directing the Commissioner of Education to develop and make available to all schools a model curriculum to teach young people how to protect themselves from being abducted.

WHEREAS, Of the 150,000 children reported missing in the United States, 100,000 are abducted by a parent and of the other 50,000 who run away or are abducted, 5,000 return unharmed, 5,000 are found dead and the rest remain missing; and

WHEREAS, Both the United States Congress and the New Jersey Legislature have taken important first steps on behalf of missing children by establishing information clearinghouses and requiring the schools to promptly file reports on children who are absent from school and cannot be accounted for; and

WHEREAS, Concerned New Jerseyans have formed the Foundation to Find and Protect New Jersey's Children, a Statewide resource center that will help parents find their missing children, and educate parents and children on ways to prevent abduction; and

WHEREAS, The public and nonpublic schools in New Jersey provide an invaluable resource for instruction in the prevention of abduction; and

WHEREAS, It is the objective of the State of New Jersey to ensure that all of New Jersey's children are provided with skills sufficient to prevent abduction; now, therefore,

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

1. The Commissioner of Education is directed to develop and make available to all schools suggested guidelines to teach young people how to protect themselves from being abducted.

2. This joint resolution shall take effect immediately.

Approved December 19, 1985.

JOINT RESOLUTION No. 10

A JOINT RESOLUTION extending the period of time within which the Property Tax Assessment Study Commission, created by Joint Resolution No. 3 of 1983, shall report its findings and recommendations.

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

1. The period of time within which the Property Tax Assessment Study Commission, created by Joint Resolution No. 3 of 1983, shall report its findings and recommendations, as extended by Joint Resolution No. 4 of 1984, is further extended to October 1, 1986.

2. This joint resolution shall take effect immediately.

Approved January 14, 1986.

JOINT RESOLUTION No. 11

A JOINT RESOLUTION designating the Route 88 Canal Bridge in the borough of Point Pleasant, county of Ocean, as the "Veterans Memorial Bridge."

WHEREAS, Our veterans deserve and merit continued remembrance and appreciation for the sacrifices they have made for freedom and the American way of life; and

WHEREAS, Our veterans have maintained a true allegiance to the United States of America and have fought and died for the United States to preserve our American freedom; and

WHEREAS, In order to express our gratitude and appreciation and to give public recognition to all of our servicemen throughout the country; now, therefore,

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

1. That the Route 88 Canal Bridge, in the borough of Point Pleasant, county of Ocean, shall be designated as the "Veterans' Memorial Bridge."

2. That the Commissioner of Transportation shall cause to be erected along Route 88 and "Veterans' Memorial Bridge" appropriate signs to perpetuate this designation.

3. This joint resolution shall take effect immediately.

Approved January 17, 1986.

JOINT RESOLUTION No. 12

A JOINT RESOLUTION establishing a Holocaust Victims' Memorial Commission.

WHEREAS, This year marks the 40th anniversary of the liberation of the Nazi concentration camps in Europe by Allied armies; and

WHEREAS, Six million Jews and millions of other Europeans were killed in those camps between 1933 and 1945 as part of a systematic program of cultural, social and political extermination known as the Holocaust; and

WHEREAS, Among the Jews brutally murdered by the Nazis were the sisters, brothers, parents and other relatives of the survivors who left Europe and came to this State, and of other Jewish citizens of New Jersey; and

WHEREAS, All the citizens of this State should remember the victims of the barbarous acts committed by an inhuman regime attempting to sustain the detestable prejudice of anti-Semitism and the tyranny of fascism; and

WHEREAS, It is fitting and proper for this State to perpetuate the memory and lessons of the Holocaust after the liberators and survivors are no longer alive, and to insure that the victims of genocide are never forgotten by the present and future residents of New Jersey; now, therefore,

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

1. There is established a seven-member Holocaust Victims' Memorial Commission. The commission shall consist of: the chairman of the New Jersey State Council on the Arts, who shall serve as an ex officio member; two public members to be appointed by the Governor, no more than one of whom shall be of the same political party; two members of the Senate to be appointed by the President thereof, no more than one of whom shall be of the same political party; and two members of the General Assembly to be appointed by the Speaker thereof, no more than one of whom shall be of the same political party.

2. The commission shall organize as soon as may be practicable after the appointment of its members and shall select a chairman and vice-chairman, not of the same political party, and a secretary, who need not be a member of the commission.

3. It shall be the duty of the commission to consider what would constitute an appropriate permanent public memorial in this State to the victims of the Holocaust, and to recommend the form that the memorial shall take as well as its location, if such a memorial is to be a physical structure or monument.

4. The commission shall be entitled to call to its assistance and avail itself of the services of such 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, and to employ such stenographic, clerical and professional assistance and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

5. The commission may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and Legislature within six months after it is organized, together with any legislative bills it desires to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately.

Approved January 21, 1986.

EXECUTIVE ORDERS

(2235)

Executive Orders

EXECUTIVE ORDER No. 89

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. 78 (Kean) of July 20, 1984 expires January 20, 1985; and

WHEREAS, The conditions specified in Executive Order No. 106 (Byrne) of June 19, 1981, continue to present a substantial likelihood of disaster;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a continuing state of emergency and ORDER and DIRECT as follows:

1. Executive Orders 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, and No. 78 (Kean) of July 20, 1984 shall remain in effect until January 20, 1986, notwithstanding any sections in them stating otherwise.

2. This Order shall take effect immediately.

Issued January 18, 1985.

EXECUTIVE ORDER No. 90

WHEREAS, An effective and efficient Child Support Enforcement Program will help assure the proper financial support of children and may be instrumental in decreasing welfare costs through increased support collections; and

WHEREAS, The existing New Jersey Child Support Program may benefit from an objective overview and data collection, reflecting program operations, and the development of a Statewide awareness of program needs may serve to consolidate program efforts; and

WHEREAS, The Child Support Amendments of 1984 (P. L. 98-378), which amend Title IV-D of the Social Security Act, require, as a condition of a state's eligibility for federal payments under the Act, that the governor of each state, on or before December 1, 1984, appoint a State Commission on Child Support to examine, investigate and study the state's child support system; and

WHEREAS, A New Jersey Commission on Child Support was established by letter to the Secretary of State on November 27, 1984; and

WHEREAS, The adoption and reaffirmation of this Commission by Executive Order is appropriate in order to set forth the composition and organization of the Commission, its powers and duties;

NOW, THEREFORE, I, Thomas H. Kean, 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. There is hereby created a State Commission on Child Support (hereinafter referred to as the Commission).

a. The Commission shall consist of 29 members appointed by the Governor. The members of the Commission shall be one custodial and one noncustodial parent, five representatives of the State IV-D agency, one representative of the State Judiciary, five

members from the Executive Branch, two State Senators and two Assemblymen, four representatives of child welfare and social services agencies, two members from the Family Law and two members from the Women's Rights sections of the New Jersey State Bar Association and a maximum of four public members representing diversified aspects of the State child support system.

b. Commission vacancies shall be filled by appointment by the Governor.

c. The Governor shall designate the Chairperson of the Commission from among the members of the Commission, who shall serve at the pleasure of the Governor. The Commission members shall choose a Vice-Chairperson from among their membership.

d. The Commission may organize itself as it deems appropriate to carry out its responsibilities.

2. The Commission shall meet regularly during the life of the Commission.

3. The Commission shall examine, investigate and study the operations of the State's child support system to determine:

a. The extent to which the State's system has been successful in securing support and parental involvement both for children who are eligible for aid under a State plan approved under Part A of Title IV of the Social Security Act and for children who are not eligible for such aid.

b. The problems pertaining to visitation rights, appropriate objective standards of support, the enforcement of interstate obligations and the availability, cost and effectiveness of services both to children who are eligible for aid under a State IV-A or IV-D plan and those who are not.

c. The need for legislation at the federal and State levels to obtain support for all children.

4. The Commission shall submit to the Governor and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation and study of the State's child support system.

5. The Department of Human Services is directed to cooperate with the Commission, to the extent not inconsistent with the law, to furnish such staff, office space and supplies as necessary for the Commission to carry out this Order. The Commission is also

authorized to consult with any other department, office, division or agency of the State for data, program reports and any other information deemed necessary to satisfy this Order. Each such department, office, agency or division is authorized, and hereby directed, to the extent not inconsistent with the law, to cooperate with the Commission, as necessary, for the fulfillment of this Order.

6. This Order shall take effect immediately.

Issued January 28, 1985.

EXECUTIVE ORDER No. 91

WHEREAS, Executive Order No. 35 created the Governor's Committee on Children's Services Planning and Executive Order No. 77 extended its term; and

WHEREAS, The purpose of this Committee was to review the findings of the Commission on Children's Services and make recommendations to improve the quality of services for the children and youth of this State; and

WHEREAS, The coming together of these talented individuals has focused attention on the problems of children and youth in New Jersey, and fostered improved planning and coordination of services for children; and

WHEREAS, The Governor's Committee on Children's Services Planning has prepared specific recommendations to improve services for children and youth; and

WHEREAS, There is a need for the Committee to work with the State departments and the community in order to help implement its recommendations and facilitate efforts to improve the quality of services for children and youth;

Now, THEREFORE, I, Thomas H. Kean, 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 Committee on Children's Services Planning shall continue in existence until January 1, 1986.
 2. The Committee shall work with the various State departments, the Administrative Office of the Courts, local public and private agencies, and community groups to:
 - (a) Facilitate implementation of the recommendations made by the Committee;
 - (b) Continue to foster improved planning and coordination of services for children;
 - (c) Foster increased private sector involvement in developing programs and services to benefit New Jersey's children; and
 - (d) Provide such information on children's services issues as the Governor may request.
 3. The Committee shall work with the Administration in developing legislation to establish an ongoing mechanism to cooperatively work with State government agencies and the community in the planning and coordination of services for children.
 4. The current members of the Committee shall continue to serve in their capacity until January 1, 1986.
 5. This Order shall take effect immediately.
- Issued February 1, 1985.

EXECUTIVE ORDER No. 92

WHEREAS, The acquisition, storage, retrieval, analysis and dissemination of health care related statistics is instrumental in protecting the well-being of the residents of the State of New Jersey; and

WHEREAS, The New Jersey State Department of Health, Center for Health Statistics, is presently engaged in developing programs which will provide uniform health care data to all State Health Department programs as well as various State and national users; and

WHEREAS, Recent federal legislation establishing the Cooperative Health Statistics System requires that each state designate a

New Jersey State Library

EXECUTIVE ORDERS

state agency to administer or be responsible for the statistical activities under the System; and

WHEREAS, The New Jersey State Department of Health now participates under federal contracts in the Cooperative Health Statistics System;

Now, THEREFORE, I, Thomas H. Kean, 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 New Jersey State Department of Health, Center for Health Statistics, is hereby designated as the sole State agency responsible for administering health related statistical activities within the State under the Cooperative Health Statistics System, National Center for Health Statistics.

2. This Order shall take effect immediately.

Issued February 23, 1985.

EXECUTIVE ORDER No. 93

WHEREAS, Executive Order No. 54 of Governor Brendan Byrne created a program for departmental review of boards, commissions, committees and councils, which program has become defunct; and

WHEREAS, Executive Order No. 7 created a Pension Systems Review Commission, which Commission has issued its report and completed its function; and

WHEREAS, Executive Order No. 9 amended Executive Order No. 7 creating a Pension Systems Review Commission, which Commission has now completed its work; and

WHEREAS, Executive Order No. 13 created the Governor's Management Improvement Commission, which Commission has now completed its work; and

WHEREAS, Executive Order No. 15 regulating the administration of State-owned employee housing has been superseded by P. L. 1983, c. 468; and

WHEREAS, Executive Order No. 38 created a Governor's Committee on the Office of Administrative Law, which Committee has issued its report and completed its functions; and

WHEREAS, Executive Order No. 45 created a Governor's Commission on Unemployment Insurance, which Commission has issued its report and completed its function; and

WHEREAS, Executive Order No. 48 amended Executive Order No. 7 to allow the Pension Systems Review Commission to submit its report by March 15, 1984, which Commission has submitted its report and completed its function; and

WHEREAS, Executive Order No. 58 created a Task Force on State Compensation Equity, which Task Force has since been replaced by the Task Force of Equitable Compensation established by P. L. 1984, c. 166; and

WHEREAS, Executive Order No. 64 amended Executive Order No. 38 which created the Governor's Committee on the Office of Administrative Law to require it to submit its report before July 7, 1984, which Committee has submitted its final report; and

WHEREAS, Executive Order No. 68 declared a State of Emergency in April, 1984, due to flooding in various counties in the State, which flooding has subsided;

NOW, THEREFORE, I, Thomas H. Kean, 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: Executive Order No. 54 of Governor Brendan Byrne and my Executives Orders No. 7, 9, 13, 15, 38, 45, 48, 58, 64 and 68 are terminated and revoked and any regulations adopted and promulgated thereunder shall be null and void.

Issued March 7, 1985.

EXECUTIVE ORDER No. 94

WHEREAS, Executive Order No. 83 created a Martin Luther King, Jr. Commemorative Commission in the State of New Jersey; and

WHEREAS, The purpose of the Martin Luther King, Jr. Commemorative Commission is to develop, coordinate and advise the Governor of Statewide activities in honor of Martin Luther King, Jr.'s birthday and to create programs designed to educate the people of New Jersey about Martin Luther King, Jr. and the Civil Rights Movement; and

WHEREAS, The Martin Luther King, Jr. Federal Holiday Commission created by the United States Congress stipulates that membership on that Commission be bipartisan; and

WHEREAS, This State's Martin Luther King, Jr. Commemorative Commission is based upon the federal Commission but differs from that Commission in that it lacks bipartisan representation; and

WHEREAS, It is fitting and proper that the Martin Luther King, Jr. Commemorative Commission have membership representative of both political parties;

NOW, THEREFORE, I, Thomas H. Kean, 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. Section 2 of Executive Order No. 83 is hereby amended as follows:

2. The Commission shall consist of 44 members to be appointed by the Governor.

a. A representative from the Martin Luther King, Jr. Center for Nonviolent Social Change;

b. A representative of the Governor's office;

c. Eight members of the Legislature, four Senators, no more than two of whom shall be of the same political party, and four Assemblypersons, no more than two of whom shall be of the same

political party, appointed by the Governor upon the recommendations of the President of the Senate and the Speaker of the General Assembly;

d. 34 representatives of the various civic and social organizations, including the clergy, education, the business sector and the arts. The members shall represent all major geographical segments of the State. These members shall be committed to resolving conflict and to the humanitarian philosophy of Dr. King.

2. This Order shall take effect immediately.

Issued March 14, 1985.

EXECUTIVE ORDER No. 95

WHEREAS, The farming community in this State is currently experiencing great difficulty in securing financing from traditional agricultural lending sources due to a nationwide decrease in land values and a decrease in the availability of funding on the federal level; and

WHEREAS, The farming community is dependent upon the availability of a continuous source of financing in order to insure the continued viability of agriculture in this State; and

WHEREAS, Alternative sources for the financing of agricultural activities in this State must be identified, developed and made available to those in need of such financing;

Now, THEREFORE, I, Thomas H. Kean, 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. There is created an Agricultural Financing Task Force for the purpose of studying and developing alternative methods for the financing of agricultural activities in this State.

2. The members of the Task Force, to be appointed by the Governor, shall be a representative of the State Rural Advisory Council, a Professor of Agricultural Economics from Cook College,

a representative from the agricultural lending industry and four public members. The State Secretary of Agriculture and the State Treasurer shall also serve ex officio.

3. Upon completion of its study and investigation, the Task Force shall, within six months of the effective date of this Order, render to the Governor a report of its findings and recommendations.

4. The State Department of Agriculture is directed to cooperate with the Task Force to the extent not inconsistent with the law, and to furnish such information, data, staff, office space and supplies as necessary for the Task Force to carry out this Order. The Task Force is also authorized to consult with any other department, office, division or agency of the State for data and any other information deemed necessary to satisfy this Order. Each such department, office, agency or division is authorized, to the extent not inconsistent with the law, to cooperate with the Task Force, as necessary for the fulfillment of this Order.

5. This Order shall take effect immediately.

Issued March 27, 1985.

EXECUTIVE ORDER No. 96

WHEREAS, The Division of Criminal Justice in the Department of Law and Public Safety has concluded an investigation into the activities of a New Jersey attorney, resulting in the attorney being charged by accusation and is presently completing his participation in the Pre-Trial Intervention Program;

WHEREAS, During the course of the investigation, the Division of Criminal Justice was assisted by the New Jersey State Police, and in addition to documents generated by various other agencies, their file now contains investigative reports and documents prepared by the New Jersey State Police;

WHEREAS, The Division of Criminal Justice has received a request from the Office of Attorney Ethics to obtain the investigative materials in order to facilitate an ethical inquiry;

WHEREAS, Executive Order No. 48 signed by Governor Richard J. Hughes on December 18, 1968 prohibits the disclosure of infor-

mation contained in State Police investigative files unless ordered by a court of competent jurisdiction or by the Governor; and

WHEREAS, The Division of Criminal Justice has attempted to obtain a court order allowing the release of the information; however, the court held it is without jurisdiction to enter such an order because there is no action pending to which the Office of Attorney Ethics is a party;

NOW, THEREFORE, I, Thomas H. Kean, 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 issue the following Executive Order:

The Division of Criminal Justice in the Department of Law and Public Safety is hereby ordered to release any and all information in their possession obtained as a result of their investigation contained in file DCJ # 82-273 to the Office of Attorney Ethics solely for the purpose of assisting the Office of Attorney Ethics to conduct an ethical inquiry into the attorney's conduct.

Issued April 4, 1985.

EXECUTIVE ORDER No. 97

WHEREAS, Northern New Jersey has suffered from unusually dry weather conditions in late 1984 and 1985; and

WHEREAS, During the past eight-month period rainfall has been the lowest on record; and

WHEREAS, The reservoir systems servicing portions of the Counties of Bergen, Essex, Hudson, Morris, Passaic and Union have been seriously depleted and in particular the reservoir systems of the Newark Water Department, the Hackensack Water Company and the North Jersey District Water Supply Commission, including the Passaic Valley Water Commission, have been especially depleted; and

WHEREAS, Although the Boonton Reservoir of the Jersey City Water System is at a normal level for this time of year, its interconnections with the above-noted systems require its inclusion in the water emergency area; and

WHEREAS, Voluntary efforts to curtail nonessential consumption of water resources have not succeeded in maintaining adequate levels of existing water supplies; and

WHEREAS, The consumption of water in Northern New Jersey must be reduced in order to preserve an adequate and dependable supply of water for the region; and

WHEREAS, The threatened shortage of water resulting from the natural cause of a prolonged drought endangers the health, safety and resources of the residents and industry of the region and has created a problem too large in scope to be handled in its entirety by regular municipal operating services; and

WHEREAS, Without the full cooperation of every person, business and political subdivision in this State and without an unprecedented amount of precipitation over the next two months, large areas of the State face the prospect of drastic cutbacks in water use, requiring curtailment of production and operations in industrial and commercial establishments, thereby causing loss of jobs and other severe economic dislocations; and

WHEREAS, It is essential that steps be taken immediately to insure the maximum conservation of all water resources in the affected areas and to provide for the equitable distribution of the existing water supply; and

WHEREAS, The Commissioner of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator have the authority pursuant to C. 58:1A-1 et seq., N. J. A. C. 7:19A-1 et seq., and N. J. A. C. 7:19B-1 et seq. to adopt such rules, regulations, orders and directives as deemed necessary to help alleviate a water emergency;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State and in accordance with the recommendation of Robert E. Hughey, Commissioner of Environ-

mental Protection, made pursuant to the Emergency Water Supply Allocation Plan Rules set forth at N. J. A. C. 7:19-1 et seq., do hereby declare a state of emergency in the hereinafter designated municipalities in portions of the Counties of Bergen, Essex, Hudson, Morris, Passaic and Union as specified in Exhibit A annexed hereto and do hereby DECLARE, ORDER and DIRECT as follows:

1. I declare that a state of emergency exists in the area described, by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me by the Laws of 1981, chapter 262 (C. 58:1A-1 et seq.); the Laws of 1942, chapter 251 (C. App. A:9-33 et seq.); and all amendments and supplements thereto.

3. The Commissioner of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator are directed, pursuant to C. 58:1A-1 et seq., N. J. A. C. 7:19A-1 et seq., and N. J. A. C. 7:19B-1 et seq., and other relevant laws, to take whatever steps are necessary and proper to alleviate the water supply emergency and to effectuate this Order.

4. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever, to fully cooperate in all matters concerning this water supply emergency.

5. All citizens in nonemergency areas are urged now to voluntarily conserve water and to comply with water use restrictions imposed by municipalities and the water purveyor servicing their areas.

6. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order shall be subject to the penalties provided by law under C. 58:1A-1 et seq. and C. App. A:9-49 et seq.

7. This Order shall remain in effect until terminated by action of the Governor.

8. This Order shall take effect immediately.

Issued April 17, 1985.

EXHIBIT A

Schedule of Municipalities Covered by
Executive Order No. 97

<i>Bergen County</i>	Teaneck
Alpine	Tenafly
Bergenfield	Teterboro
Bogota	Upper Saddle River
Carlstadt	Wallington
Cliffside Park	Washington Township
Closter	Westwood
Cresskill	Woodcliff Lake
Demarest	Wood Ridge
Dumont	<i>Essex County</i>
East Rutherford	Belleville
Edgewater	Bloomfield
Elmwood Park	Cedar Grove
Emerson	Fairfield
Englewood	Glen Ridge
Englewood Cliffs	Montclair
Fair Lawn	Newark
Fairview	North Caldwell
Fort Lee	Nutley
Garfield	Verona
Hackensack	<i>Hudson County</i>
Harrington	Bayonne
Hasbrouck Heights	East Newark
Haworth	Guttenberg
Hillsdale	Harrison
Leonia	Hoboken
Little Ferry	Jersey City
Lodi	Kearny
Lyndhurst	North Bergen
Maywood	Secaucus
Montvale	Union City
Moonachie	Weehawken
New Milford	West New York
North Arlington	<i>Morris County</i>
Northvale	Lincoln Park
Norwood	Pequannock Township
Old Tappan	<i>Passaic County</i>

Oradell	Clifton City
Palisades Park	Haledon
Paramus	Little Falls
Ridgefield	North Haledon
Ridgefield Park	Passaic City
River Edge	Paterson
River Vale	Prospect Park
Rochelle Park	Totowa
Rockleigh	Wayne
Rutherford	West Paterson
Saddle Brook	<i>Union County</i>
South Hackensack	Elizabeth City

EXECUTIVE ORDER No. 98

WHEREAS, I have issued Executive Order No. 97 of 1985, which declares a state of water supply emergency in certain portions of this State; and

WHEREAS, The Department of Environmental Protection is currently implementing an Emergency Water Supply Allocation Plan for meeting such water supply emergency; and

WHEREAS, There exists the need to coordinate the efforts of the public and private sectors in responding to this water supply emergency; and

WHEREAS, It is appropriate to call upon the experience and expertise of the private sector in such implementation of the Emergency Water Supply Allocation Plan;

Now, THEREFORE, I, Thomas H. Kean, 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. There is hereby established a Citizens' Advisory Committee. The Citizens' Advisory Committee shall consist of 15 individuals from the public and private sectors, to be appointed by the Governor. The Governor shall also appoint two individuals to

serve as Co-Chairpersons of the Advisory Committee. All Advisory Committee members shall serve without compensation.

2. This Citizens' Advisory Committee shall provide advice and assistance to the Commissioner of Environmental Protection for the duration of the water supply emergency declared by Executive Order No. 97 of 1985.

3. This Order shall take effect immediately.

Issued April 17, 1985.

EXECUTIVE ORDER No. 99

WHEREAS, Executive Order No. 11, dated July 23, 1982, created an Ethnic Advisory Council to advise the Governor regarding the needs of the ethnic communities in New Jersey; and

WHEREAS, Through Executive Order No. 11, the Executive Branch of government has recognized that the State of New Jersey is one of the most ethnically and culturally diverse states in the country; and

WHEREAS, The wide variety of customs, languages and histories of these varied ethnic groups has significantly enhanced and enriched the quality of the State's cultural and social life; and

WHEREAS, The continued influx of new ethnic groups into New Jersey has precipitated the need to increase our awareness, appreciation and understanding of each of these new ethnic groups; and

WHEREAS, Increasing the membership of the Ethnic Advisory Council to include representatives from these new groups will allow for a better understanding of their contributions and needs;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. Section 2(a) of Executive Order No. 11 is hereby amended as follows:

2(a) The Council shall consist of 23 members appointed by the Governor. At least 14 of these appointees shall be representatives of ethnic communities within the State of New Jersey. In selecting the Council membership, consideration shall be given to appointing as broad a representative sample as possible of New Jersey's ethnic communities. All new members of the Ethnic Advisory Council who are appointed upon the effective date of this Order shall serve a full two-year term from the date of this Order.

3. This Order shall take effect immediately.

Issued May 7, 1985.

EXECUTIVE ORDER No. 100

WHEREAS, The support of new construction in New Jersey is a continuing and important need vital to the public health, safety and welfare; and

WHEREAS, The promotion of new construction requires prompt and efficient administration by the State and local governments of permit application and review procedures; and

WHEREAS, The objective of State government should be to consolidate and simplify identification and application procedures and forms in order to serve the public interest; and

WHEREAS, The State has successfully implemented programs for the review of construction permits within 90 days of submission of the application; and

WHEREAS, A Cabinet Committee on Permit Coordination advised by a Citizens' Committee and established by Executive Order No. 57 of Governor Byrne has successfully initiated programs to improve permit application processing by State government; and

WHEREAS, The ever-changing construction-related regulatory framework merits ongoing attention of its impact on State permit systems and continued efforts to seek innovative solutions to further improve the permitting process; and

WHEREAS, Previously implemented improvements must serve as the foundation for an expanded and strengthened effort at simplifying and expediting the State permit process;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. There is hereby reconstituted a Cabinet Committee on Permit Coordination ("the Committee"). The members of the Committee shall be the Commissioners of the Departments of Commerce and Economic Development, Community Affairs, Environmental Protection, Transportation and Treasury, the Director of the Office of Management and Budget, Department of the Treasury, and the Chief of the Office of Business Advocacy, Department of Commerce and Economic Development, or their designees. The Commissioner of Commerce and Economic Development shall serve as chairperson. The Chief of the Office of Business Advocacy, Department of Commerce and Economic Development, shall serve as Executive Director to the Committee, and shall provide staff from his office to assist the Committee at its request. The Committee may also obtain the assistance of other personnel of State departments and agencies. All departments and agencies are authorized and directed to cooperate with the Committee's request for personnel.

2. Any person proposing to commence a construction project may request the Committee to coordinate the review of the project. The Committee or its representative may meet with the applicant to discuss methods to assist the prompt and efficient processing of permit applications. After review of the nature of the project, the Executive Director shall designate a Permit Coordination Officer from the Office of Business Advocacy as the expeditor for the project. The expeditor shall (a) advise the applicant of State permits necessary for the construction of the project, (b) coordinate contacts with relevant State agencies reviewing the permits, (c) discuss with State departments and agencies the feasibility of

consolidating hearings, documentation or other matters pertaining to the project, (d) advise the Committee of problems or delays experienced in the review and (e) assist the applicant and the Committee in completing the expeditious review of permit applications.

3. The Committee shall actively encourage the construction industry to utilize the now-developed "One Stop" Permit Identification System. The Office of Business Advocacy, reacting to information provided by the applicant, will identify each department with a potential review interest in the project. These departments shall determine required permits and report those findings in accordance with established procedures. The Office of Business Advocacy shall summarize these findings and respond to each qualified applicant with a complete listing of required State permits within 15 working days of receipt of the application. The Committee shall continue to refine and update the "One Stop" Permit Identification System as conditions warrant.

4. Priority processing status may be granted to a specific permit application by the Chairperson of the Committee if all of the following conditions are met: (a) the project was processed through the Permit Identification System and a permit requirement was not identified; (b) the failure to identify a permit requirement was not due to omission or misinformation by the applicant, or a consequence of substantive revisions to the project following identification; and (c) permit review has been completed or substantially completed on the permits identified by the Office of Business Advocacy. Upon granting priority status to a construction application, the Executive Director shall notify the commissioner of the appropriate State department. The State department shall approve, condition or disapprove an application with priority status in a period not to exceed 10 working days of notification. If the department is unable to comply with this time frame, the commissioner shall notify the Chairman in writing of the schedule that can be met for the specific application.

5. A State department shall use its best efforts to approve, condition or disapprove an application for a construction permit within 90 days following the date the application is complete. Each State department shall file a periodic report as the Committee may direct, which identifies those construction permit applications which are pending review for periods in excess of 90 days from submission. The report shall provide (a) the status

of the permit review, (b) the type of project, (c) the reasons for delays or extensions in the time for review, (d) the estimated additional time needed to complete review of the application and (e) any additional information requested by the Committee. The Committee may request additional information from the department of particular applications which in its judgment are pending for excessive periods of time, or which require special review or procedures. At the request of a commissioner of a department, the Committee may exempt for good cause types of permits or individual permit applications from any of the provisions of this Order. The Committee shall advise the Governor of types of permit reviews which are consistently exceeding 90 days, and recommend any appropriate actions.

6. The Committee shall update the handbook, "Directory of State Programs for Regulating Construction," on a regular basis, with the cooperation of all agencies and departments which administer construction permits.

7. The Committee shall review relevant legislation and regulatory proposals concerning construction permit applications and review requirements and procedures. The Committee shall advise the Governor on possible legislative or administrative revisions which would consolidate, simplify or expedite present procedures.

8. The Committee or its representatives shall meet with county and local government officials and other interested public and private persons to discuss possible coordination and consolidation of State and local permit application and review procedures. The Committee shall advise the Governor of possible legislative or other actions required to implement its recommendations.

9. The Committee is authorized to adopt standards or establish procedures necessary to achieve the purposes of this Order. The Committee may adopt other criteria for projects eligible for the assistance provided in this Order.

10. There is hereby reconstituted a Citizens' Committee on Permit Coordination composed of nine citizens of the State, appointed by and serving at the pleasure of the Governor. Each member shall serve a term of four years. The Citizens' Committee may include persons from the construction industry, labor union representatives, developers, real estate interests, environmental organizations, academic community and others interested in construction in the State and the efficient administration of permit

procedures. The Citizens' Committee shall advise the Committee on any matter relevant to the purposes of this Order, and may advise the Committee and applicants for construction permits of methods and procedures for the most expeditious processing of permits.

11. This Order shall take effect immediately.

Issued May 10, 1985.

EXECUTIVE ORDER No. 101

WHEREAS, Bicycling is a pollution-free, healthful, energy-efficient means of transportation and recreation; and

WHEREAS, Bicycling is recognized by both the State and federal law and the policies and programs of federal, State and local transportation agencies as a legitimate mode of personal transportation; and

WHEREAS, According to the State Outdoor Recreation Plan, bicycling currently is and is projected to continue to be the most popular form of outdoor recreation through the year 2000, when it is estimated that over 282 million recreational bicycle trips will be made annually; and

WHEREAS, New Jersey has a reputation nationwide as a prime area for bicycle touring, as exhibited by the thousands of people attracted to annual invitational rides; and

WHEREAS, There are over 20 bicycle clubs in the State, which indicates the popularity of the sport; and

WHEREAS, It is in the public interest of the State of New Jersey to encourage residents to bicycle to save energy, improve the environment, improve public health and to establish facilities and regulations for the safety of participants therein; and

WHEREAS, It is in the economic interest of the State of New Jersey to encourage nonresidents to visit New Jersey for bicycling tours, races and other leisure activities;

Now, THEREFORE, I, Thomas H. Kean, 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. There is hereby established a New Jersey Bicycle Advisory Council.

2. The Advisory Council shall be comprised of the Commissioner of Transportation, the Chairman of the Board of New Jersey Transit, the Commissioner of Environmental Protection, the Director of the Division of Motor Vehicles, the Director of the Division of Travel and Tourism, the Commissioner of Education, the Commissioner of Community Affairs, or their designees, and a representative of the Governor's office and eight (8) public members with a demonstrated active interest in bicycling and representing the various aspects of bicycling from the private sector, to be appointed by me. The Commissioners of Health and Energy and the State Treasurer, or their designees, shall serve in a consultant capacity. The chairperson shall be the Commissioner of Transportation, or his designee, and the Department of Transportation shall serve as the lead agency.

3. The Advisory Council shall have the following responsibilities:

a. Examine the status of bicycling in the State of New Jersey and make recommendations regarding the promotion of the use of the bicycle as a safe and viable mode of transportation and the development or expansion of programs leading to an improved bicycling environment.

b. Study and make recommendations regarding other potential uses and aspects of the bicycle, such as bicycle touring, recreation trails and maps, safety, education, health and fitness, law enforcement, competitive racing, potential funding sources and the promotion of tourism from outside the State.

4. In order to carry out its functions, the Council is authorized to call upon any department, office, division or agency of the State to supply such data, reports, or other information it deems necessary. Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Advisory Council and to furnish it with such information, personnel and assistance as necessary to accomplish the purpose of this Order.

5. The Advisory Council shall render its findings and recommendations to the Governor within one year after its first meeting.

6. The Advisory Council shall remain in existence until its final report has been issued.

7. This Order shall take effect immediately.

Issued May 14, 1985.

EXECUTIVE ORDER No. 102

WHEREAS, Executive Order No. 97 declared a state of emergency in certain communities of Northeast New Jersey in response to the unusually dry weather conditions this State has experienced since August of 1984; and

WHEREAS, Drought conditions have continued unabated in Northeast New Jersey and there continues to be a lack of adequate rainfall throughout the State, thereby aggravating existing water shortages in all areas of the State; and

WHEREAS, This unusual incident resulting from natural causes endangers the health, safety and resources of the residents and industry of the State and is too large in scope to be handled in its entirety by regular municipal operating services; and

WHEREAS, Surface and ground waters throughout the State are integrally interconnected and the increasing shortage of one resource will lead to the rapid depletion of the other; and

WHEREAS, It is vital to conserve and husband the available surface and ground water resources of the State; and

WHEREAS, The Commissioner of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator have the authority pursuant to C. 58:1A-1 et seq., N. J. A. C. 7:19A-1 et seq., and N. J. A. C. 7:19B-1 et seq. to adopt such rules and regulations, orders and directives as deemed necessary to help alleviate a water emergency;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State and in accordance with the recommendation of Robert E. Hughey, Commissioner of Environmental Protection, made pursuant to the Emergency Water Supply Allocation Plan Rules set forth at N. J. A. C. 7:19-1 et seq., do hereby extend the declaration of a state of emergency to include all municipalities of this State and do hereby DECLARE, ORDER and DIRECT as follows:

1. I declare that a state of emergency exists throughout this State by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me by the Laws of 1981, chapter 262 (C. 58:1A-1 et seq.); the Laws of 1942, chapter 251 (C. App. A :9-33 et seq.); and all amendments and supplements thereto.

3. The Commissioner of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator are directed, pursuant to C. 58:1A-1 et seq., N. J. A. C. 7:19A-1 et seq., and N. J. A. C. 7:19B-1 et seq., and other relevant laws, to take whatever steps are necessary and proper to alleviate the water emergency and to effectuate this Order. An administrative order to be issued by the Commissioner of Environmental Protection shall set forth with specificity the particular phase of the drought and the appropriate restrictions which apply in the various regions of the State.

4. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever, to fully cooperate in all matters concerning this water emergency.

5. It is essential that all citizens of this State realize that water conservation efforts are essential. Water saved now could help to save someone's job in the near future since the imposition of more drastic water restrictions could require curtailment of industrial and commercial establishments.

6. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or

taken pursuant to this Order shall be subject to the penalties provided by law under C. 58:1A-1 et seq. and C. App. A:9-49 et seq.

7. This Order supersedes Executive Order No. 97 and shall remain in effect until terminated by action of the Governor.

8. This Order shall take effect immediately.

Issued May 16, 1985.

EXECUTIVE ORDER No. 103

WHEREAS, It is the policy of the State of New Jersey to develop a coordinated and unified strategy for effective implementation of a program to attempt to eliminate elderly abuse and to offer assistance to the victims of such abuse; and

WHEREAS, The United States House of Representatives Select Committee on Aging has reported that it estimates only one case in six of elderly abuse is reported; and it is estimated that the number of elderly abuse cases may number as high as one million a year nationally; and

WHEREAS, The most vulnerable of the elderly, especially older women, are most frequently the victims of abuse, ranging from financial extortion to physical violence; and

WHEREAS, No accurate accounting of the number or degree of acts of crime against the elderly is available, nor is a coordinated approach to understanding and combating such crimes in operation in the State;

Now, THEREFORE, I, Thomas H. Kean, 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. There is hereby created a New Jersey Advisory Council on Elderly Abuse. The New Jersey Advisory Council on Elderly Abuse shall continue in existence until March 1, 1986. The Advisory Council shall be composed of 21 members, consisting of the following 19 organizational representatives or their respective

designees, and two citizen representatives to be appointed by the Governor:

- (1) Commissioner of the Department of Community Affairs;
- (2) Attorney General;
- (3) Commissioner of the Department of Health;
- (4) Commissioner of the Department of Human Services;
- (5) Director of the Division on Aging, Department of Community Affairs;
- (6) Director of the Division on Women, Department of Community Affairs;
- (7) Ombudsman for the Institutionalized Elderly;
- (8) Public Advocate;
- (9) Chair of the Violent Crimes Compensation Board;
- (10) Representative of the Association of County Prosecutors;
- (11) Representative of the New Jersey Association of Chiefs of Police;
- (12) Executive Directors of the New Jersey Association of Social Workers;
- (13) Chair of the New Jersey Chapter of the National Caucus and Center for Black Aging;
- (14) Chair of the New Jersey Coalition for Protection of Vulnerable Adults;
- (15) Chair of the State Commission on Aging;
- (16) Representative of Family Counseling Services;
- (17) Executive Director of the Legal Services Corporation of New Jersey;
- (18) President of the New Jersey Association of Area Agencies on Aging;
- (19) Director of the Division of Youth and Family Services.

2. The Commissioner of the Department of Community Affairs or his designee shall serve as chair of the Advisory Council, and staff of the New Jersey Division on Aging shall supply staff services to the Advisory Council.

3. The objective of the Advisory Council shall be to investigate the degree of elderly abuse in the State and the number of types of incidents, suggest methods to combat the problem, and develop coordinated programs to alleviate the suffering of those involved and methods of prevention of such criminal acts.

4. A report on the activities of the Advisory Council, together with recommendations, shall be due in 240 days.

5. The report shall include: (a) a description of the problem of elderly abuse in New Jersey; (b) a description of the victims and perpetrators; (c) a listing of programs and services needed by victims and perpetrators; and (d) recommendations for appropriate actions by the State and other agencies.

6. (a) The Advisory Council is authorized to call upon any department, office, division or agency of the State to supply such data, reports, and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this Order.

(b) All departments and their subdivisions and other agencies are authorized and directed, to the extent possible and not inconsistent with law, to cooperate with the advisory Council and to furnish it with such information, personnel and assistance as may be necessary to accomplish the purposes of this Order.

7. The Advisory Council shall meet at the call of the chairperson.

8. This Order shall take effect immediately.

Issued May 28, 1985.

EXECUTIVE ORDER No. 104

I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. July 5, 1985, the day following Independence Day, 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 or other funds made available to the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternative day off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, preclude such absence on July 5, 1985.

Issued June 6, 1985.

EXECUTIVE ORDER No. 105

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency relating to the dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark; and

WHEREAS, That emergency was extended by Executive Order No. 40A, signed on June 14, 1983, to cover the dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison, County of Middlesex; and

WHEREAS, That emergency was further extended by Executive Order No. 40B, signed on June 17, 1983, to cover the dioxin contamination of another site, located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic; and

WHEREAS, That emergency was further extended by Executive Order No. 40C, signed on June 29, 1983, to cover the dioxin contamination of another site, located at 100 West Main Street, in the Borough of Bound Brook, County of Somerset; and

WHEREAS, That emergency was further extended by Executive Order No. 40D, signed on October 19, 1983, to cover the dioxin contamination in the general vicinity of 80 Lister Avenue, in the City of Newark, including the premises of Brady Iron and Metals, Inc., at 55 Lockwood Street, in the City of Newark; and

WHEREAS, The preliminary investigation, sampling and analysis of soil samples at certain property located at 338 Wilson Avenue (Block 5038, Lot 70), in the City of Newark has indicated detectable levels of dioxin present at certain areas on that property; and

WHEREAS, Further investigations, sampling and analyses are necessary in order to determine definite information as to the nature and extent of the contamination and any danger which may be posed by the possible dioxin contamination at the above-described premises and in the immediate vicinity thereof in order to determine what action, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, The scope of the efforts necessary to protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

Now, THEREFORE, I, Thomas H. Kean, 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. Executive Order No. 40 is amended to include the property at 338 Wilson Avenue, in the City of Newark and the area in the immediate vicinity thereof.

2. Executive Order No. 40, and all terms and provisions thereof and amendments thereto, is continued in full force and effect and shall remain in effect until terminated by action of the Governor.

3. This Order shall take effect immediately.

Issued June 10, 1985.

EXECUTIVE ORDER No. 106

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency relating to the dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark; and

WHEREAS, That emergency was extended by Executive Order No. 40A, signed on June 14, 1983, to cover the dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison, County of Middlesex; and

WHEREAS, That emergency was further extended by Executive Order No. 40B, signed on June 17, 1983, to cover the dioxin contamination of another site, located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic; and

WHEREAS, That emergency was further extended by Executive Order No. 40C, signed on June 29, 1983, to cover the dioxin contamination of another site, located at 100 West Main Street, in the Borough of Bound Brook, County of Somerset; and

WHEREAS, That emergency was further extended by Executive Order No. 40D, signed on October 19, 1983, to cover the dioxin contamination of another site in the general vicinity of 80 Lister Avenue, in the City of Newark, including the premises of Brady Iron and Metals, Inc., at 55 Lockwood Street, in the City of Newark, County of Essex; and

WHEREAS, That emergency was further extended by Executive Order No. 105, signed on June 10, 1985, to cover the dioxin contamination of another site, located at 338 Wilson Avenue, in the City of Newark, County of Essex; and

WHEREAS, The preliminary investigation, sampling and analysis of soil samples at certain property located at 204 21st Avenue (Block 1202, Lot 3), in the City of Paterson, County of Passaic has indicated detectable levels of dioxin present at certain areas on that property; and

WHEREAS, Further investigations, sampling and analyses are necessary in order to determine definite information as to the nature and extent of the contamination, any danger which may be posed by the possible dioxin contamination at the above-described premises and in the immediate vicinity thereof, and what action, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, The scope of the efforts necessary to protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

Now, THEREFORE, I, Thomas H. Kean, 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. Executive Order No. 40 is amended to include the property at 204 21st Avenue, in the City of Paterson, County of Passaic and the area in the immediate vicinity thereof.

2. Executive Order No. 40, and all terms and provisions thereof and amendments thereto, is continued in full force and effect and shall remain in effect until terminated by action of the Governor.

3. This Order shall take effect immediately.

Issued June 12, 1985.

EXECUTIVE ORDER No. 107

WHEREAS, Executive Order No. 56 was signed on December 2, 1983, to declare an emergency relating to the presence of radium, radon, and other radioactive decay products in the Borough of Glen Ridge and the Township of Montclair in the County of Essex; and

WHEREAS, the New Jersey Department of Environmental Protection has undertaken the investigation, sampling and analysis of soil and air samples at certain properties located within the Township of West Orange, in the County of Essex; and

WHEREAS, On the basis of this investigation, the Department of Environmental Protection has reached the preliminary conclusion that certain properties in the municipality may be subject to levels of radon in excess of the standards established for the substance by the United States Environmental Protection Agency and the Nuclear Regulatory Commission; and

WHEREAS, Further investigations, sampling and analyses are necessary in order to obtain definite information as to the nature and extent of the contamination and any danger which may be posed by the presence of radium, radon and other radioactive decay products as certain properties in the Township of West Orange, which is needed to determine what action, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 56; and

WHEREAS, The scope of the efforts necessary to protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

NOW, THEREFORE, I, Thomas H. Kean, 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. Executive Order No. 56 is amended to include the Township of West Orange in the County of Essex.

2. Executive Order No. 56, and all terms and provisions thereof and amendments thereto, is continued in full force and effect and shall remain in effect until terminated by action of the Governor.

3. This Order shall take effect immediately.

Issued June 25, 1985.

EXECUTIVE ORDER No. 108

WHEREAS, Executive Order No. 74 created the Governor's Advisory Commission on Diabetes; and

WHEREAS, This Commission is charged with the task of assessing the incidence and prevalence of diabetes in New Jersey, determining its economic and social impact, examining the effectiveness of health care facilities providing treatment for diabetics in this State and calculating the insurance requirements of New Jersey diabetics; and

WHEREAS, The Governor's Advisory Commission on Diabetes has met frequently during the past year and has held numerous public hearings in the State; and

WHEREAS, The Commission has determined that its work has not been completed and its mandate from the Governor has not been fully carried out; and

WHEREAS, The Commission plans to investigate the possibility of establishing insurance risk-sharing pools, hopes to expand and

improve health data collection efforts, plans to review diabetic education standards and wishes to initiate communication with major State insurance carriers;

Now, THEREFORE, I, Thomas H. Kean, 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 Advisory Commission on Diabetes shall continue in existence until July 1, 1986.
2. The Commission shall submit its final recommendations to the Governor at that time.
3. The current members of the Commission shall continue to serve in their present capacity until July 1, 1986.
4. This Order shall take effect immediately.

Issued June 28, 1985.

EXECUTIVE ORDER No. 109

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency relating to the dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark, County of Essex; and

WHEREAS, That emergency was extended by Executive Order No. 40A, signed on June 14, 1983, to cover the dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison, County of Middlesex; and

WHEREAS, That emergency was further extended by Executive Order No. 40B, signed on June 17, 1983, to cover the dioxin contamination of another site, located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic; and

WHEREAS, That emergency was further extended by Executive Order No. 40C, signed on June 29, 1983, to cover the dioxin contamination of another site, located at 100 West Main Street, in the Borough of Bound Brook, County of Somerset; and

WHEREAS, That emergency was further extended by Executive Order No. 40D, signed on October 19, 1983, to cover the dioxin contamination of another site in the general vicinity of 80 Lister Avenue, in the City of Newark, including the premises of Brady Iron and Metals, Inc., at 55 Lockwood Street, in the City of Newark, County of Essex; and

WHEREAS, That emergency was further extended by Executive Order No. 105, signed on June 10, 1985, to cover the dioxin contamination of another site, located at 338 Wilson Avenue, in the City of Newark, County of Essex; and

WHEREAS, That emergency was further extended by Executive Order No. 106, signed on June 12, 1985, to cover dioxin contamination of another site, located at 204 21st Avenue, in the City of Paterson, County of Passaic; and

WHEREAS, The preliminary investigation, sampling and analysis of soil samples at certain property located at 1035 Belleville Turnpike, in the Town of Kearny, County of Hudson, has indicated detectable levels of dioxin present at certain areas on that property; and

WHEREAS, Further investigations, sampling and analyses are necessary in order to obtain definite information as to the nature and extent of the contamination, any danger which may be posed by possible dioxin contamination at the above-described premises and in the immediate vicinity thereof, and what action, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, the scope of the efforts necessary to protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

Now, THEREFORE, I, Thomas H. Kean, 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. Executive Order No. 40 is amended to include the property at 1035 Belleville Turnpike, in the Town of Kearny, County of Hudson, and the area in the immediate vicinity thereof.

2. Executive Order No. 40, and all terms and provisions thereof and amendments thereto, is continued in full force and effect and shall remain in effect until terminated by action of the Governor.

3. This Order shall take effect immediately.

Issued July 2, 1985.

EXECUTIVE ORDER No. 110

WHEREAS, Executive Order No. 51 created the Governor's Task Force on Child Abuse (the "Task Force"); and

WHEREAS, The incidence of both child abuse and neglect in New Jersey is a critical public concern affecting not only children, but families and communities as well and, therefore, the problem of child neglect also warrants the attention of the Task Force; and

WHEREAS, The Task Force has found it appropriate to assume the name "Governor's Task Force on Child Abuse and Neglect"; and

WHEREAS, The Task Force has been:

- a. Studying the problems of both child abuse and neglect in New Jersey and making recommendations for corrective action;
- b. Mobilizing citizens and community agencies in a strong, prevention-oriented, proactive effort to address child abuse and neglect;
- c. Developing mechanisms to facilitate early detection and provide appropriate services for the victims of child abuse and neglect and their families, and fostering cooperative working relationships between responsible agencies; and

WHEREAS, Executive Order No. 51 expired on January 1, 1985; and

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WHEREAS, The Task Force has determined that additional investigation and work remains to be done on the problems of child abuse and neglect and, accordingly, the Task Force has continued to meet monthly in an effort to adequately and appropriately fulfill its mandate;

NOW, THEREFORE, I, Thomas H. Kean, 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. Executive Order No. 51 is hereby reinstated and the powers and responsibilities of the Task Force pursuant to Executive Order No. 51 are continued in full force and effect.

2. The Task Force shall hereafter be referred to as the Governor's Task Force on Child Abuse and Neglect, and shall continue to study, make recommendations and take such other actions as are appropriate under the mandate given the Task Force pursuant to Executive Order No. 51 concerning the problem of child neglect as well as that of child abuse.

3. The Task Force shall continue in existence until January 1, 1987.

4. The Task Force shall annually submit its recommendations to the Governor for the improvement of current programs and the initiation of new programs which help to prevent child abuse and neglect.

4. The members of the Task Force appointed or otherwise designated pursuant to Executive Order No. 51 shall continue to serve as members of the Task Force until January 1, 1987.

5. This Order shall take effect immediately.

Issued July 19, 1985.

EXECUTIVE ORDER No. 111

WHEREAS, The Division of Criminal Justice in the Department of Law and Public Safety has concluded an investigation into complaints of suspected cheating on a civil service promotional examination administered in a New Jersey municipality; and

WHEREAS, During the course of the investigation, the Division of Criminal Justice was assisted by the New Jersey State Police, and in addition to documents generated by various other agencies, the Division's file now contains investigative reports and documents prepared by the New Jersey State Police; and

WHEREAS, The Division of Criminal Justice has received a request from the Department of Civil Service to obtain these reports and documents in order to pursue this matter at an investigative hearing before the Office of Administrative Law; and

WHEREAS, Executive Order No. 48, signed by Governor Richard J. Hughes on December 18, 1968, prohibits the disclosure of information contained in State Police investigative files unless ordered by a court of competent jurisdiction or by the Governor;

Now, THEREFORE, I, Thomas H. Kean, 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 the Division of Criminal Justice in the Department of Law and Public Safety release any and all information obtained as a result of their investigation which is contained in file DCJ #85-499-I to the Department of Civil Service solely for the purpose of assisting the Department of Civil Service to investigate the subject matter of this case file at the administrative level. The information contained in said file may be used by the Department of Civil Service in any civil or disciplinary action or at any investigative or other hearing before the Office of Administrative Law or before any court of competent jurisdiction.

Issued July 30, 1985.

EXECUTIVE ORDER No. 112

WHEREAS, Over the past decade the tasks facing law enforcement in particular, and the criminal justice system as a whole, have grown dramatically in complexity and scope; and

WHEREAS, Innovative efforts over the past few years to address the problem of street crime have necessitated increased coordination between law enforcement and prosecutorial agencies; and

WHEREAS, The training and career preparation of those charged with insuring the public safety are essential to both address these growing demands and to continue the success of State and local agencies in combatting crime of all types; and

WHEREAS, The establishment of a State law enforcement training institute would constitute a major step in the professionalization of those involved in all aspects of the criminal justice system and would provide the latest training techniques and the most modern technology in the fight against crime; and

WHEREAS, The complexity and importance of the responsibilities of criminal justice professionals warrant both the highest quality preservice preparation and ongoing professionally relevant education and training;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. There is created a commission to be known as the Law Enforcement Training Academy Study Commission. The commission shall consist of 12 members: a former Attorney General; the Director of the Division of Criminal Justice; the Superintendent of the Division of State Police; the Commissioner of the Department of Corrections; the Director of the Office of Management and Budget; and seven public members. Four of the public members may be members of the Legislature; however, no more than two members of the Senate, who shall not be of the same political party, may be appointed after consultation with the

President of the Senate, and no more than two members of the General Assembly, who shall not be of the same political party, may be appointed after consultation with the Speaker of the General Assembly. Of the remaining public members, one shall be a member of the New Jersey State Association of Chiefs of Police; one shall be a police chief of a municipality that currently utilizes the Sea Girt facility for basic municipal police training; and one shall be a citizen who has either financial or management experience.

2. Members of the commission shall serve without compensation, but shall be reimbursed for their expenses actually incurred in the performance of their duties.

3. The Governor shall designate a member to be chairman of the commission. The commission shall organize as soon as may be possible after the appointment of its members and shall select a vice-chairman from among its members and a secretary, who need not be a member of the commission.

4. It shall be the duty of the commission to study the feasibility of constructing one facility to address the preservice and ongoing professional education needs of all components in the criminal justice system. As part of its study, the commission shall perform the following tasks:

a. Examine in detail the areas of common ground among each component of the law enforcement community where common education would be of benefit.

b. Examine the necessary and desirable features of a training institute and the projected construction cost of the facility.

c. Determine how a criminal justice academy conducting State-level training for law enforcement professionals will enhance the criminal justice system and provide cost savings to the public.

d. Make recommendations for the funding and operation of the academy.

5. The commission is entitled to receive the assistance and services of the employees of any State, county or municipal department, board, bureau, commission or agency which it may require and which may be available to it for these purposes, and may employ professional consultants, stenographic and clerical assistants and incur traveling and other miscellaneous expenses neces-

sary to perform its duties, within the limits of the funds previously set aside for this purpose by the Division of Criminal Justice, Division of State Police and Department of Corrections.

6. The commission may meet and hold hearings at the places it designates for these purposes, and shall report its findings and recommendations to the Governor no later than four months following the organization of the commission.

7. This Order shall take effect immediately.

Issued August 7, 1985.

EXECUTIVE ORDER No. 113

WHEREAS, The attraction and retention of jobs is of paramount concern to the economy and well-being of New Jersey; and

WHEREAS, Business transfers and terminations often cause undue hardship upon displaced workers and the surrounding communities; and

WHEREAS, The interests of government, labor and business are served by fostering an environment which encourages the growth and retention of jobs; and

WHEREAS, The State of New Jersey through several Executive Departments and independent authorities provides programs designed to encourage business location and expansion in the State, to assist struggling businesses in remaining viable, and to retrain and reemploy workers who are displaced as the result of business terminations in the State; and

WHEREAS, The effectiveness of these programs could be enhanced if coordinated on a Statewide basis and improved through the shared expertise of government, labor and business officials;

Now, THEREFORE, I, Thomas H. Kean, 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. There is hereby created a New Jersey Business Retention and Job Retraining Commission, hereinafter referred to as the Commission.

2. The Commission shall consist of 10 members, to be selected by the Governor as follows: the Commissioners of the Departments of Labor, and Commerce and Economic Development, or their designees; the Director of the Division of Employment Services in the Department of Labor; the Director of the Division of Economic Development in the Department of Commerce and Economic Development; two representatives of organized labor; two representatives of business trade associations; one representative of county government; and one representative of local government. All members, with the exception of the representatives of the Departments of Labor, and Commerce and Economic Development, shall serve for terms of three years and until their successors are appointed. Vacancies shall be filled by appointment to the unexpired portions of the terms. The Commissioner of Labor shall serve as chairman of the Commission.

3. It shall be the duty of the Commission to:

a. Survey all programs designed to encourage the growth or retention of jobs and to retrain or reemploy displaced workers and the chronically unemployed;

b. Coordinate the programs identified in the survey in a manner designed to most effectively and efficiently distribute available resources allocated for business retention and job training purposes;

c. Disseminate information regarding the availability of these programs to affected businesses, workers, counties and municipalities;

d. Utilize the collective expertise of government, labor, and business in evaluating the effectiveness of these programs;

e. Offer to the fullest extent possible a comprehensive program for the early detection of business terminations and the effective delivery of governmental services to affected businesses and employees.

4. Any employee, bargaining agent, business official, governmental official or concerned citizen may notify the Commission of any transfer or termination of business operations which will displace employees. Upon hearing of a potential business transfer

or termination from any source, the Commission shall arrange to advise the affected business of all available business retention programs and any potentially displaced employees of all job training and employment programs.

5. The Commission shall issue an annual report to the Governor, summarizing its activities and findings for the preceding year. The annual report shall include the Commission's recommendations for improving the State's business retention and job training programs in terms of better coordinating and publicizing these programs, making better use of available public or private sector resources, and adapting available programs to the specific needs of distressed businesses and displaced workers.

6. The Commission is authorized to call upon any department, office, division or agency of the State to supply such data, program reports and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this order. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with law, to cooperate with the Commission to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

Issued August 28, 1985.

EXECUTIVE ORDER No. 114

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency relating to the dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark, County of Essex; and

WHEREAS, That emergency was extended to Executive Order No. 40A, signed on June 14, 1983, to cover the dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison, County of Middlesex; and

WHEREAS, That emergency was further extended by Executive Order No. 40B, signed on June 17, 1983, to cover the dioxin contamination of another site, located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic; and

WHEREAS, That emergency was further extended by Executive Order No. 40C, signed on June 29, 1983, to cover the dioxin contamination of another site, located at 100 West Main Street, in the Borough of Bound Brook, County of Somerset; and

WHEREAS, That emergency was further extended to Executive Order No. 40D, signed on October 19, 1983, to cover the dioxin contamination of another site in the general vicinity of 80 Lister Avenue, in the City of Newark, including the premises of Brady Iron and Metals, Inc., located at 55 Lockwood Street, in the City of Newark, County of Essex; and

WHEREAS, That emergency was further extended by Executive Order No. 105, signed on June 10, 1985, to cover the dioxin contamination of another site, located at 338 Wilson Avenue, in the City of Newark, County of Essex; and

WHEREAS, That emergency was further extended by Executive Order No. 106, signed on June 12, 1985, to cover the dioxin contamination of another site, located at 204 21st Avenue, in the City of Paterson, County of Passaic; and

WHEREAS, That emergency was further extended by Executive Order No. 109, signed on July 2, 1985, to cover the dioxin contamination of another site, located at 1035 Belleville Turnpike, in the Town of Kearny, County of Hudson; and

WHEREAS, The preliminary investigation, sampling and analysis of soil samples at certain property located at Horseshoe Road, in the Borough of Sayreville, County of Middlesex, has indicated detectable levels of dioxin present at certain areas on that property; and

WHEREAS, Further investigations, sampling and analyses are necessary in order to obtain definite information as to the nature and extent of the contamination, any danger which may be posed by possible dioxin contamination at the above-described premises and in the immediate vicinity thereof, and what action, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

EXECUTIVE ORDERS

WHEREAS, The scope of the efforts necessary to protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

Now, THEREFORE, I, Thomas H. Kean, 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. Executive Order No. 40 is amended to include the property at Horseshoe Road, in the Borough of Sayreville, County of Middlesex (Block 256, Lot 2C), and the area in the immediate vicinity thereof.

2. Executive Order No. 40, and all terms and provisions thereof and amendments thereto, is continued in full force and effect and shall remain in effect until terminated by action of the Governor.

3. This Order shall take effect immediately.

Issued September 4, 1985.

EXECUTIVE ORDER No. 115

WHEREAS, Hurricane Gloria has caused severe weather conditions, including heavy rains, winds and high tides which have created the potential for serious and substantial flooding, hazardous road conditions, threatens homes and other structures, as well as lives; 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 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 (C. App. A:9-33 et seq.), and the Laws of 1979, chapter 240 (C. 38A:3-6.1), and the Laws of 1963, chapter 109 (C. 38A:2-4) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey do DECLARE and PROCLAIM that a State of Emergency presently exists in the State of New Jersey:

1. In accordance with the Laws of 1963, chapter 109 (C. 38A:2-4) and the Laws of 1979, chapter 240 (C. 38A:3-6.1) as supplemented and amended, I hereby authorize the Adjutant General of the Department of Defense and New Jersey National Guard to order to active duty such members of the New Jersey National Guard that, in his judgement, 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.

2. In accordance with the Laws of 1942, chapter 251 (C. App. A:9-33 et seq.) as supplemented and amended, I hereby empower the Superintendent of the Division of State Police, who is the State's Director of Emergency Management, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State highway, municipal or county road, including the right to detour, reroute or divert any or all traffic to prevent ingress or egress from any area that he, in his discretion, deems necessary for the protection of the health, safety and welfare of the public.

3. 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.

4. The Superintendent of the Division of State Police is further authorized and empowered to utilize all facilities owned, rented, operated or 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.

5. This proclamation shall remain in effect until such time as it is determined by the Governor that an emergency no longer exists.

Issued September 27, 1985.

EXECUTIVE ORDER No. 116

WHEREAS, An Executive Order declaring a State of Emergency was issued on September 27, 1985 because of the severe weather conditions created by Hurricane Gloria; and

WHEREAS, The severity of the weather conditions necessitating the declaration of the State of Emergency has ceased;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, announce that the State of Emergency is hereby terminated, effective 12:01 a.m., September 28, 1985.

I wish to express my appreciation to the people of New Jersey for the manner in which they cooperated during this emergency and to the law enforcement and other emergency response personnel of the State for their untiring efforts.

Issued September 28, 1985.

EXECUTIVE ORDER No. 117

WHEREAS, A comprehensive training and development program known as the Certified Public Manager (CPM) Program was established in New Jersey State government by Executive Order No. 28, which was signed on January 1, 1983; and

WHEREAS, The purpose of the CPM Program is to improve the professional quality of the State's managers and supervisors; and

WHEREAS, The representation of women and minorities in the CPM Program is reflective of an overall effort to attract and develop women and minority employees in State government; and

WHEREAS, The public interest of the State of New Jersey requires that such training and development be an ongoing process which does not end with the certification in public management provided by the CPM Program; and

WHEREAS, It is desirable to support a professional society of persons holding the certification in public management to contribute to the continued growth and success of the Certified Public Manager Program;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of the State, do hereby ORDER and DIRECT:

1. The State of New Jersey does hereby recognize the establishment of the Certified Public Manager Society of New Jersey, hereinafter referred to as the Society.

2. The Society, in order to be so recognized and maintain said status, shall:

a. Establish bylaws, establish criteria for membership and have a Board of Trustees of which no more than three members shall be from any one State department. The President of the Civil Service Commission, as Chief Administrator of the New Jersey Certified Public Manager Program, shall be an ex officio member of the Board and shall approve the Society's bylaws governing eligibility for membership.

b. Elect officers in accordance with its bylaws. The President of the Society shall be an ex officio member of the Board of Trustees of the New Jersey Certified Public Manager Program.

c. Promote improvement of the professional quality of supervisors and managers throughout State government and develop programs, seminars and other functions to further the purposes and objectives of the Certified Public Manager Program.

3. The President of the Civil Service Commission shall have veto power over the formal actions taken by the Society.

4. All State departments, divisions and agencies shall, at the direction of the President of the Civil Service Commission, assist the Society in pursuing and achieving its goals.

5. This Order shall take effect immediately.

Issued September 30, 1985.

EXECUTIVE ORDER No. 118

WHEREAS, On May 28, 1985, I created by Executive Order No. 103 a New Jersey Advisory Council on Elderly Abuse, a body composed of 21 members, including the Commissioner of the Department of Community Affairs, the Attorney General, the Commissioner of the Department of Health, and the Commissioner of the Department of Human Services, aimed at investigating the degree of elderly abuse in the State and developing programs to combat the problem; and

WHEREAS, This Council is charged with the task of investigating the degree of elderly abuse in the State, of suggesting methods to combat the problem, and of developing coordinative programs to alleviate the suffering of those involved and methods of prevention of such criminal acts; and

WHEREAS, The New Jersey Advisory Council on Elderly Abuse has been meeting regularly; and

WHEREAS, The Council has determined that it needs an extension of approximately three and one-half months to complete its work; and

WHEREAS, The Council intends to develop a coordinated and unified strategy for effective implementation of a program to attempt to eliminate elderly abuse and to offer assistance to the victims of such abuse as part of its report and recommendations;

NOW, THEREFORE, I, Thomas H. Kean, 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 New Jersey Advisory Council on Elderly Abuse shall continue in existence until July 1, 1986.
2. A report on the activities of the Advisory Council, together with recommendations, shall be due by May 15, 1986.

3. The current members of the Advisory Council shall continue to serve in their present capacity until July 1, 1986.

4. This Order shall take effect immediately.

Issued October 22, 1985.

EXECUTIVE ORDER No. 119

WHEREAS, Executive Order No. 113, which was signed on August 28, 1985, created a New Jersey Business Retention and Job Retraining Commission to coordinate and improve the services provided to businesses and employees which have been adversely affected by plant closing situations; and

WHEREAS, The Commission members include State, county and local governmental officials involved in economic development and job retention efforts as well as representatives of organized labor and business trade associations; and

WHEREAS, The Director of the Division of Employment and Training in the Department of Labor has responsibility for job retraining as well as the dislocated worker program under the Job Training Partnership Act;

NOW, THEREFORE, I, Thomas H. Kean, 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. Section 2 of Executive Order No. 113 is amended to read as follows:

2. The Commission shall consist of 11 members, to be selected by the Governor as follows: the Commissioners of the Departments of Labor, and Commerce and Economic Development, or their designees; the Directors of the Division of Employment Services and the Division of Employment and Training in the Department of Labor; the Director of the Division of Economic Development in the Department of Commerce and Economic Development; two representatives of organized labor; two representatives of business trade associations; one representative of

county government; and one representative of local government. All members, with the exception of the representatives of the Departments of Labor, and Commerce and Economic Development, shall serve for terms of three years and until their successors are appointed. Vacancies shall be filled by appointment to the unexpired portions of the terms. The Commissioner of Labor shall serve as chairman of the Commission.

2. Section 1 and sections 3 through 7 of Executive Order No. 113 shall remain in effect as originally intended.

3. This Order shall take effect immediately.

Issued October 25, 1985.

EXECUTIVE ORDER No. 120

WHEREAS, The farming community in this State is currently experiencing great difficulty in securing financing from traditional agricultural lending sources due to a nationwide decrease in land values and a decrease in the availability of funding on the federal level; and

WHEREAS, The farming community is dependent upon the availability of a continuous source of financing in order to insure the continued viability of agriculture in this State; and

WHEREAS, Alternative sources for the financing of agricultural activities in this State must be identified, developed and made available to those in need of such financing; and

WHEREAS, Executive Order No. 95 created an Agricultural Financing Task Force; and

WHEREAS, This Task Force is charged with the responsibility of identifying and developing alternative methods for the financing of agricultural activities in this State; and

WHEREAS, The Agricultural Financing Task Force has met frequently during the past seven months and held numerous public hearings in the State; and

WHEREAS, The Task Force has determined that its work has not been completed and its mandate from the Governor has not been fully carried out; and

WHEREAS, The Task Force plans to continue to proceed with its charge as set forth in Executive Order No. 95:

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. The Agricultural Financing Task Force shall continue in existence until January 1, 1986.
2. The Task Force shall submit its final recommendations to the Governor at that time, or as soon thereafter as practicable.
3. The current members of the Task Force shall continue to serve in their present capacity until January 1, 1986.
4. This Order shall take effect immediately.

EXECUTIVE ORDER No. 121

WHEREAS, It is the public policy of this State that all disabled persons have the right to pursue the objective of independent living if they desire and are able to; and

WHEREAS, All disabled persons in need of habilitation and rehabilitation services should have such services available; and

WHEREAS, Disabled persons have the right to equal access to these services in a timely and efficient manner; and

WHEREAS, The State has supported the growth and development of such services in response to identified needs; and

WHEREAS, There have been gaps in services, lack of coordination in planning and operations, conflicting eligibility criteria, and concerns about the efficient and effective allocation of fiscal resources;

NOW, THEREFORE, I, Thomas H. Kean, 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. There is hereby created a Governor's Task Force on Services for Disabled Persons (hereinafter referred to as the "Task Force").

The Task Force shall consist of 28 members to be appointed by the Governor as follows: the Commissioners of the Departments of Corrections, Community Affairs, Education, Health, Higher Education, Human Services, Insurance, Labor, the Public Advocate, Transportation, and the Treasury, or their designees; and 17 public members to be appointed from among persons and organizations with distinguished records and expertise concerned with services for disabled persons, who shall include representatives of consumers, providers, business, labor, government and other individuals and groups. The members shall serve without compensation, but public members may be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds.

The Governor shall designate from among the public members a Chairman, who shall serve at the pleasure of the Governor. The Task Force members shall choose a Vice-Chairman from among the members of the Task Force. Task Force vacancies shall be filled by appointment by the Governor for the remainders of any unexpired terms.

The Task Force shall organize itself into at least four (4) subcommittees reflecting the vocational, educational, medical and community living needs of disabled persons. All organizations and individuals interested in the mission of the Task Force shall be encouraged to participate and they may be called upon for subcommittee participation or for informational purposes.

2. The Task Force shall be established for a period of six months and shall hold formal meetings at least once a month.

3. The Task Force shall research and study the vast network of existing public and private services available to New Jersey's disabled population in the vocational, educational, community living and medical dimensions. In order to accomplish this, the Task Force shall:

- a. Identify the existing services and the problems experienced by disabled persons in utilizing these services.
- b. Analyze the service delivery system to determine its effectiveness, possible duplication and unmet needs.
- c. Recommend remedial action to address problems regarding the delivery of services.
- d. Recommend a design and implementation plan for a State-wide model of complementary services supported by appropriate funding.
- e. Issue a final report of its findings and recommendations to the Governor.

4. The Task Force shall, in performing its duty, recognize existing mechanisms for planning and coordinating services for disabled persons at the State, county, and local levels and shall consult with representatives of each of these levels.

5. The Governor shall designate an Executive Director of the Task Force, who shall serve at the pleasure of the Governor. The Departments of Education, Human Services, Labor, Transportation and the Public Advocate are authorized and directed, to the extent not inconsistent with the law, to cooperate with the Task Force and to furnish it with staff, office space and supplies as necessary to accomplish the purposes of this Order. The Task Force is authorized to call upon any department, office, division or agency of the State to supply such data, program reports and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order.

6. This Order shall take effect immediately and expire six months after the organizational meeting of the Task Force.

Issued October 29, 1985.

EXECUTIVE ORDER No. 122

WHEREAS, Executive Order No. 69, signed by Governor Thomas H. Kean on April 10, 1984, created a Governor's Commission on Eastern European and Captive Nation History to advise on the teaching of the history of the people of Eastern Europe in the State's schools; and

WHEREAS, The Governor's Commission on Eastern European and Captive Nation History is required to prepare a report to the Governor regarding its findings and recommendations concerning whether the history of these people is fairly and accurately presented in our public schools and their curricula; and

WHEREAS, The Governor's Commission on Eastern European and Captive Nation History passed a resolution requesting that the life of the Commission be extended because further work is necessary in order to fully complete its task;

Now, THEREFORE, I, Thomas H. Kean, 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 Commission on Eastern European and Captive Nation History shall continue in existence until July 31, 1986.
2. The Commission shall submit its final recommendations to the Governor at that time.
3. The current members of the Commission shall continue to serve in their present capacity until July 31, 1986.
4. This Order shall take effect immediately.

Issued November 4, 1985.

EXECUTIVE ORDER No. 123

WHEREAS, Chapter 73, P. L. 1963, finds and declares it to be the public policy of this State that public records shall be readily accessible for examination by the citizens of this State for the protection of the public interest, except as otherwise provided in said law; and

WHEREAS, Said Chapter 73 provides that all records which are required by law to be made, maintained or kept on file by State and local governmental agencies are to be deemed to be public records, subject to inspection and examination and available for copying, pursuant to said law; and

WHEREAS, Chapter 73 represents a right supplemental to the existing right of the public to examine and copy public records, which right has been established under the common law and by statute and remains inviolate even without the benefit of the provisions of said Chapter 73; and

WHEREAS, Some limitation upon the otherwise unqualified and unrestricted right to examine and copy records provided by Chapter 73 is essential and not detrimental to the public interest since the existing common law and statutory right to examine records remains upon the satisfaction of the requirements imposed by such laws; and

WHEREAS, Said Chapter 73 provides that records which would otherwise be deemed to be public records, subject to inspection and examination and available for copying, pursuant to the provisions of said law, may be excluded therefrom by Executive Order of the Governor or by any regulation promulgated under the authority of any Executive Order of the Governor; and

WHEREAS, Section 3 (e) of Executive Order No. 9, issued by Governor Richard J. Hughes in 1963, states that fingerprint cards, plates and photographs and other similar criminal investigation records which are required to be made, maintained or kept by any State or local governmental agency shall not be deemed to be public records subject to inspection and examination and available for copying pursuant to the provisions of Chapter 73, P. L. 1963; and

WHEREAS, There has arisen confusion among the media and law enforcement personnel as to whether certain records of police departments are public records within the purview of Chapter 73, P. L. 1963, or are exempt under the purview of Executive Order No. 9 of Governor Richard J. Hughes;

Now, THEREFORE, I, Thomas H. Kean, 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. Section 3 (e) of Executive Order No. 9 of Governor Richard J. Hughes is modified as hereinafter set forth and any regulations

adopted and promulgated thereunder shall be deemed null and void insofar as the same shall be consistent with the provisions thereof.

2. The following records shall not be deemed to be public records subject to inspection and examination and available for copying pursuant to the provisions of Chapter 73, P. L. 1963:

(a) Fingerprint cards, plates and photographs and similar criminal investigation records which are required to be made, maintained or kept by any State or local government agency, except that the following information shall be made available to the public as soon as practicable unless it shall appear that the release of such information will jeopardize the safety of any person or any investigation in progress or be otherwise inappropriate. For the purposes of this Order, the term "as soon as practicable" shall generally be understood to mean within 24 hours.

(i) Where a crime has been reported but no arrest yet made, information as to the type of crime, time, location and type of weapon, if any.

(ii) If an arrest has been made, information as to the name, address and age of any victims unless there has not been sufficient opportunity for notification of next of kin of any victim of injury and/or death to any such victim or where the release of the name of any victim would be contrary to existing law or court rule. In deciding on the release of information as to the identity of a victim, the safety of the victim and the victim's family, and the integrity of any ongoing investigation, shall be considered. These concerns are heightened when a crime has been reported but no arrest yet made.

(iii) If an arrest has been made, information as to the defendant's name, age, residence, occupation, marital status and similar background information, and the identity of the complaining party unless the release of such information is contrary to existing law or court rule.

(iv) Information as to the text of any charges, such as the complaint, information and indictment unless sealed by the court.

(v) Information as to the identity of the investigating and arresting personnel and agency and the length of the investigation.

(vi) Information on the circumstances immediately surrounding the arrest, including but not limited to the time and place of the

arrest, resistance, if any, pursuit, possession and nature and use of weapons and ammunition by the suspect and by the police.

(vii) Information as to circumstances surrounding bail, whether it was posted and amount thereof.

(b) The Attorney General, as chief law enforcement officer of the State, or his designee, or, where appropriate, the County Prosecutor, as chief law enforcement officer of the county, shall promptly resolve all disputes as to whether or not the release of records would be "otherwise inappropriate," between the custodian of any records referred to herein and any person seeking access thereto. Where the Attorney General or the County Prosecutor determines that the release of records would be "otherwise inappropriate," he shall issue a brief statement explaining his decision.

3. The terms of this Order shall be carried out in the spirit of Chapter 73, P. L. 1963, and keeping in mind the right of citizens to be aware of events occurring in their community.

Issued November 12, 1985.

EXECUTIVE ORDER No. 124

WHEREAS, Four years ago at the end of Governor Byrne's gubernatorial term the last adjustments were made to the statutorily and constitutionally controlled salaries of the Executive, Legislature and Judiciary; and

WHEREAS, These salary adjustments were based in part upon the recommendations of a special committee established by Governor Byrne; and

WHEREAS, The Legislature has not yet passed Assembly Bill No. 3933 of 1984 establishing a permanent commission to deal with this issue, which creates a need for a temporary commission to address salary changes; and

WHEREAS, Every four years at the end of the gubernatorial term is the appropriate time to consider salary changes for the Executive, Legislature and Judiciary; and

WHEREAS, The current gubernatorial term is coming to an end and recommendations are needed regarding appropriate salary changes for the executive, legislative and judicial branches;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. There is created a commission to be known as the Commission on Executive, Legislative and Judicial Salaries. The commission shall consist of five members, who shall be appointed by the Governor and shall serve until the commission's report is submitted. The members of the commission shall serve without compensation. The Governor shall designate from among the members a chairperson, who shall serve at the pleasure of the Governor. The members shall choose a vice-chairperson from among the members of the commission.

2. It shall be the duty of the commission to study the current state of constitutionally and statutorily controlled executive, legislative and judicial salaries and to determine whether adjustments are necessary.

3. In its deliberations, the commission shall consider the following issues:

- a. The responsibilities of each office;
- b. The number of hours per week required to perform the responsibilities of each office;
- c. Comparable positions in the public and private sectors within and outside of the State;
- d. Current state of the national and State economies;
- e. Projections of further economic growth or decline; and
- f. Projections on the cost of living for the future.

4. The commission is authorized to call upon any department, office, division or agency of the State to supply such data, personnel or assistance as it deems necessary to discharge its responsibilities under this act. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with law, to cooperate with the commission.

5. The commission shall submit a report to the Governor, containing its recommendations, by December 15, 1985 or sooner if practicable. The commission's report shall include recommended salary adjustments, if any, for executive, legislative and judicial officers.

6. This Order shall take effect immediately.

Issued November 12, 1985.

EXECUTIVE ORDER No. 125

I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. November 29, 1985, 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 or other funds made available in the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternative day off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, preclude such absence on November 29, 1985.

Issued November 12, 1985.

EXECUTIVE ORDER No. 126

WHEREAS, On October 19, 1984, the 98th Congress of the United States enacted Amendments to the Vocational Education Act of 1963, which amendments are referred to as the Carl B. Perkins Act of 1984, Federal Public Law 98-524; 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 as a condition for receipt of Federal assistance for vocational education programs, services and activities in New Jersey, the abolition of State Vocational Education Advisory Council and the establishment of a State Council on Vocational Education with 13 members; and

WHEREAS, The Perkins Act does not set terms for the membership of the State Council nor fully define the duties of the State Council;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State and the Carl B. Perkins Act of 1984, do hereby ORDER and DIRECT:

1. There is hereby established in but not of the Department of Education the New Jersey State Council on Vocational Education, hereinafter referred to as the "State Council."

2. The State Council shall consist of 13 members, to be appointed by the Governor, who shall be broadly representative of citizens and groups within the State having an interest in vocational education. Members shall serve for terms of three years; except that, of the initial appointees, 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. Any individuals appointed to fill unexpired terms shall serve for the unexpired portions of the terms. The State Council members shall be appointed from among the following constituent groups, as required by the Perkins Act:

(a) Seven individuals who are representative of the private sector in the State, five of whom shall be representative of business, industry and agriculture, and two of whom shall be representative of labor organizations. Of the representatives of business, industry and agriculture, one shall be representative of small business concerns and one shall be a private sector member of the State Job Training Coordinating Council established pursuant to Section 122 of the Job Training Partnership Act. Due consideration should be given to the appointment of individuals who serve on a private industry council under the Job Training Partnership Act or on State councils established under other related federal acts.

(b) Six individuals who are representative of secondary and postsecondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations

within the State, and those 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), one of whom shall be representative of special education.

3. The State shall satisfy the establishment and membership of the State Council at least 90 days prior to the beginning of each planning period described in Section 113 (a) (1) of the Perkins Act.

4. For the purpose of securing the fullest implementation in New Jersey of the Perkins Act, the State Council shall do all that is or may be required to secure for the State of New Jersey the benefits of appropriations under such act, including specifically:

(a) Meet with the State Board of Education or its representatives during the planning year to advise on the development of the State plan;

(b) Advise the State Board of Education and make reports to the Governor, the business community and general public of the State concerning policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped) and 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 of Education on the establishment of evaluation criteria for vocational education programs within the State;

(e) Submit recommendations to the State Board of Education 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 the Perkins Act, 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 of Education 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 labor organizations;

(h) Report to the State Board of Education on the extent to which the individuals described in Section 201 (b) of the Perkins Act are provided with equal access to quality vocational education programs; and

(i) Evaluate at least once every two years the vocational education program delivery systems assisted under the Perkins Act and under the Job Training Partnership Act in terms of their adequacy and effectiveness in achieving the purpose of each of the two Acts, make recommendations to the State Board of Education on the adequacy and effectiveness of the coordination that takes place between vocational education and the Jobs Training Partnership Act, and advise the Governor, the State Board of Education, the State Job Training Coordinating Council, and the Secretaries of Education and Labor of these findings and recommendations.

5. The State Council shall meet as soon as practicable after the appointment of members by the Governor has been made and certification of these appointments has been accepted by the United States Secretary of Education. The State Council shall select from among its membership a chairperson, who shall be representative of the private sector. The time, place, and manner of meetings as well as 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.

6. The State Council is authorized 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 reprogrammed 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 New Jersey State Vocational Education Advisory Council, as established by Federal law and Governor Hughes's Executive Order No. 52 (1969), and amended by Governor Cahill's Executive Order No. 23 (1981) and Governor Byrne's Executive Order No. 63 (1978), is hereby abolished.

9. This Executive Order shall take effect immediately.

Issued November 25, 1985.

EXECUTIVE ORDER No. 127

WHEREAS, The State prisons and other penalty 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. 89 (Kean) of January 18, 1985 expires January 20, 1986; and

WHEREAS, The conditions specified in Executive Order No. 106 (Byrne) of June 19, 1981, continue to present a substantial likelihood of disaster;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a continuing state of emergency and ORDER and DIRECT as follows:

1. Executive Orders 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, and No. 89 (Kean) of January 18, 1985 shall remain in effect until January 20, 1987, notwithstanding any sections in them stating otherwise.

2. This Order shall take effect immediately.

Issued January 17, 1986.

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- Utilities authorities; municipal, county; exemption, certain, amends C. 40:14B-6 and 40:14B-18, Ch. 537.

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- Advanced Technology Center, Biomolecular Research in the Agricultural and Environmental Sciences, established, C. 18A:64J-29 et seq., Ch. 366.
- Advanced Technology Center, Biotechnology, established; governed by Rutgers, The State University; University of Medicine and Dentistry of New Jersey, C. 18A:64J-15 et seq., Ch. 105.
- Advanced Technology Center, Food, established; at Cook College, Rutgers, The State University, C. 18A:64J-8 et seq., Ch. 104.
- Advanced Technology Center, Hazardous and Toxic Substance Management, established; at New Jersey Institute of Technology, C. 18A:64J-1 et seq., Ch. 103.

COLLEGES AND UNIVERSITIES (Continued)

- Advanced Technology Center, Industrial Ceramics, established; at Rutgers, The State University, C. 18A:64J-22 et seq., Ch. 106.
- Advanced Technology Center, Polymer Processing and Surface Modification, established, C. 18A:64J-38 et seq., Ch. 397.
- Campus police officers; weapon-carrying, certain, authorized; powers expanded, amends N. J. S. 2C:39-6 and C. 18A:6-4.5, Ch. 376.
- County colleges; bond limit, increased to \$80,000,000, amends C. 18A:64A-22.1, Ch. 136.
- County colleges; joint self-insurance funds, permitted, C. 18A:64A-25.33 et seq., amends C. 18A:64A-25.28, Ch. 204.
- County colleges; trustees, council; organization, amends N. J. S. 18A:64A-10 et al., Ch. 173.
- Fund for the Improvement of Collegiate Education, created, in Department of Higher Education, C. 18A:62-8 et seq., Ch. 193.
- "Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Act," C. 18A:72H-1 et seq., Ch. 493.
- Independent institutions of higher education; participation in State purchasing contracts, permitted, C. 52:25-16.5 et seq., Ch. 263.
- Military personnel, dependents; resident tuition at public institutions, C. 18A:62-4.1, Ch. 231.
- New Jersey State College Governing Boards Association, established, C. 18A:64-45 et seq., amends N. J. S. 18A:3-6, repeals N. J. S. 18A:64-22 et seq., Ch. 161.
- St. Peter's College; Durant, Will and Ariel, Chair in Humanities; established, C. 18A:72G-1 et seq., Ch. 365.
- University of Medicine and Dentistry of New Jersey; bid threshold, \$12,500; in lieu of "State Public Contracts Law" amount, amends C. 18A:64G-6, Ch. 514.
- Vietnam veterans, tuition assistance, C. 18A:71-76.1 et seq., Ch. 114.

COMMERCE AND ECONOMIC DEVELOPMENT

- Commissioner, membership; Coastal Area Review Board, Clean Air Council; replacing Commissioner of Labor, amends C. 13:19-13 and 26:2C-3.2, Ch. 430.
- Division of International Trade, functions, augmented; Governor's Commission on International Trade, established, C. 52:27H-22.1 et seq., Ch. 160.

COMMISSIONS

- Child Life Protection Commission, established, C. 9:6A-1 et al., Ch. 197.
- Commission on Sex Discrimination in the Statutes, extended; amends P. L. 1978, Ch. 68; Ch. 392.
- Commission on Vocational and Technical Training in Correctional Institutions, established, Ch. 394.
- Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey, established, Ch. 508.
- Emergency Response System Study Commission, established, Ch. 542.
- Fire safety, membership increased to 20, amends C. 52:27D-25e, Ch. 90.
- Governor's Commission on International Trade, established, C. 52:27H-22.1 et seq., Ch. 160.
- Hackensack Meadowlands Food Distribution Center Commission; site designation, in region of Meadowlands district, permitted, C. 13:17A-4.1, amends C. 13:17A-2 et al., Ch. 499.

COMMISSIONS (Continued)

- Holocaust Victims' Memorial Commission, established, J. R. 12.
- New Jersey Commission on Hunger, extended, amends P. L. 1984, Ch. 36, ss. 6, 8; Ch. 451.
- New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care, established, C. 52:9Y-1 et seq., Ch. 363.
- New Jersey Commission on Science and Technology, established, C. 52:9X-1 et seq., Ch. 102.
- New Jersey Law Revision Commission; established, in Legislative Branch, C. 1:12A-1 et seq., amends C. 52:11-61, Ch. 498.
- New Jersey Monorail Legislative Commission; name changed, membership expanded; amends P. L. 1983, Ch. 295; Ch. 538.
- New Jersey Real Estate Commission; members' salaries, increased, amends R. S. 45:15-6 and C. 45:1-2.5, Ch. 137.
- New Jersey Sports Hall of Fame Advisory Commission, established, C. 5:10-6.1, Ch. 325.
- Property Tax Assessment Study Commission, reporting date, extended, J. R. 10.
- Securities Regulation Study Commission, established, Ch. 405.
- State Commission of Investigation; members, annual salary, increased to \$25,000, amends C. 52:9M-1, Ch. 119.
- State Planning Commission, Office of State Planning; established in Department of Treasury, C. 52:18A-196 et seq., amends C. 52:9S-3 et al., repeals C. 13:1B-5.1 et al., Ch. 398.
- Waterfront and Airport Commission of New York and New Jersey; port watchmen's licenses; indefinite validity, cancellation, C. 32:23-43.1 and 32:23-44.1, Ch. 32.

COMMUNITY AFFAIRS

- Division on Aging; distribution of information on State, federal programs benefiting older persons, C. 52:27D-28.5, Ch. 357.
- "Job Training Center for Urban Women Act," C. 52:27D-288 et seq., Ch. 189.
- New Jersey Youth Corps; supervisor, assistant, appointment, C. 9:25-4.1, Ch. 158.
- "Public Guardian for Elderly Adults Act," C. 52:27G-20 et seq., Ch. 298.
- "State Uniform Construction Code Act," enforcement powers, amends C. 52:27D-124, Ch. 21.

CONSUMER AFFAIRS

- Motor vehicles, new, certain; direct sales to consumers, limited to franchisees, C. 56:10-26 et seq., Ch. 361.
- Securities Enforcement Fund, established in Division of Consumer Affairs, Department of Law and Public Safety, C. 49:3-66.1, Ch. 405.
- Used goods sellers, disclosure required of profit-making nature, C. 56:8-2.23, Ch. 254.

CONSTITUTION, STATE

- Amendment, proposed; administrative rule invalidation by Legislature; Art. V, Sec. IV, para. 6; rejected.
- Amendment, proposed; Casino Revenue Fund use for homestead rebates prohibited; Art. IV, Sec. VII, para. 2; rejected.

CORRECTIONS

- Commission on Vocational and Technical Training in Correctional Institutions, established, Ch. 394.
- Escapes of prisoners; notification of local police departments, required, C. 30:4-116.1, Ch. 447.
- Inmates, certain; transfer to State Prison, authorized, amends C. 30:4-85.1, Ch. 165.
- Inmates; income deductions authorized, for unpaid penalties; driving privilege suspension, for noncompliance, amends C. 2C:43-3.1 et al., Ch. 251.

COUNTIES

- Budgets, "cap" law exemption; solid waste disposal expenditures, certain, C. 40A:4-45.26 and 40A:4-45.27, Ch. 164.
- Budgets, "cap" law exemptions; additions, study, directed, Ch. 529.
- Budgets, 1985; introduction, approval, adoption dates, Ch. 43.
- Burial costs; unclaimed bodies, certain; payment out of estates; by surviving spouses, parents, amends N. J. S. 40A:9-49, Ch. 438.
- Civil service, unclassified, additions; positions, certain, amends R. S. 11:22-2, Ch. 320.
- Claim approval; by designees, certain; between governing body meetings, amends N. J. S. 40A:5-17, Ch. 127.
- Contributions to hospitals, certain; permitted, C. 40:5-2.10c, Ch. 79.
- Disaster control coordinators, deputies; three-year terms, C. App. A:9-42.1a, amends C. App. A:9-42.1, Ch. 504.
- Employees, certain; paid time off for volunteer firefighters, first aid squad members, C. 11:24A-2.1, Ch. 339.
- Fees; filing, recording; certain, increased; Superior Court, county clerks, registers of deeds and mortgages, C. 22A:4-17.1, amends N. J. S. 22A:2-25 et al., repeals N. J. S. 22A:3-1 et seq., Ch. 422.
- Freeholders; director's designation of others as board members, certain; authorized, C. 40:20-71.1 and 40:20-71.2, Ch. 448.
- Joint activities; prepayments, certain; permitted, C. 40A:5-16.3, Ch. 419.
- Joint purchases, with municipalities; first aid equipment, permitted, amends R. S. 40:5-2, Ch. 19.
- Library appropriations, second-level services; ceiling, eliminated, amends C. 40:33-19, Ch. 240.
- Municipal construction permit fee waiver; counties, municipalities, C. 52:27D-126c, Ch. 409.
- Pension systems; financing, actuarial liabilities, certain, C. 40A:2-51.1, Ch. 67.
- Pension systems; insurance contracts, certain; authorized, to fund actuarial liabilities, C. 40A:11-15.1, Ch. 68.
- Real property, surplus, certain; conveyance, nonprofit organizations; residential rehabilitation, amends C. 40A:12-21, Ch. 412.
- Set-aside programs for small, women's, minority businesses; by counties, municipalities; authorized, C. 40A:11-41 et seq., Ch. 482.

COURTS

- Superior Court; fees, filing, certain; increased, amends N. J. S. 22A:2-25 et al., repeals N. J. S. 22A:3-1 et seq., Ch. 422.

CRIMES

- Alcoholic beverages; offering, serving; to underage persons, certain; disorderly persons offense, C. 2C:33-17, Ch. 311.
- Alcoholic beverages; sales to underage persons; defense, certain; disorderly person charges, amends R. S. 33:1-77, repeals C. 33:1-81.9, Ch. 503.
- Assault by auto, offense established; death by auto, certain; mandatory minimum sentence, increased, amends N. J. S. 2C:11-5 and 2C:12-1, Ch. 97.
- Assaults, certain; on institutionalized elderly; crimes of fourth degree, amends N. J. S. 2C:12-1, Ch. 444.
- Hazardous substance violations; statute of limitations, five years from discovery, amends N. J. S. 2C:17-2 and C. 13:1E-9, Ch. 348.
- Littering, petty disorderly persons offense, C. 13:1E-99.3, Ch. 533.
- Motor fuel tax violations, certain; crimes of fourth degree, amends R. S. 54:39-55 and 54:39-64, Ch. 340.
- "Rooming and Boarding House Act of 1979," violations, certain; disorderly persons offenses, crimes of fourth degree, C. 55:13B-11.1 and 55:13B-11.2, Ch. 413.
- Smoking; public conveyances, certain; petty disorderly persons offense, amends N. J. S. 2C:33-13, Ch. 187.
- Stun gun possession, crime of fourth degree, amends N. J. S. 2C:39-1 and 2C:39-3, Ch. 360.
- Theft of services; electric current, gas, water; connection on nonvendor's property; disorderly persons offense, amends N. J. S. 2C:20-8, Ch. 10.
- Unemployment compensation, employer violations; jurisdiction, officers' liability, amends R. S. 43:21-16, Ch. 476.

CRIMINAL PROCEDURE

- Closed circuit television testimony of minors, certain; permitted, C. 2A:84A-32.4, Ch. 126.
- "Crime Victim's Bill of Rights," C. 52:4B-34 et seq., Ch. 249.
- Death sentences; mandatory appeal to Supreme Court, juveniles exempt, amends N. J. S. 2C:11-3, Ch. 478.
- Forfeited property, division among entities participating in investigations, amends N. J. S. 2C:64-6 and 2C:64-7, Ch. 110.
- Juvenile suspects, certain; auditory, vision examinations authorized, amends C. 2A:4A-85, Ch. 437.
- Parole, hearings; notification of prosecutors, victims, certain, amends C. 30:4-123.45 and 30:4-123.54, Ch. 44.
- Sentencing proceeding, capital cases, amends N. J. S. 2A:78-7 and 2C:11-3, Ch. 178.
- Sexual offenses, child victims; prosecutions; use of anatomically correct dolls, permitted, C. 2A:84A-16.1, Ch. 205.
- Strip, body cavity searches, limited; procedures prescribed, C. 2A:161A-1 et seq., Ch. 70.
- Theft of library material; detention of suspects, authorized, C. 2C:20-12 et seq., Ch. 373.
- Victim and Witness Advocacy Fund, established; criminal penalties increased, amends C. 2C:43-3.1, Ch. 406.
- Victim-Witness Assistance, Advocacy, Offices of, established, C. 52:4B-39 et seq., Ch. 404.

CRIMINAL PROCEDURE (Continued)

Victims, witnesses, certain; protective orders, C. 2C:28-5.1 et seq., Ch. 250.
 Violent Crimes Compensation Board, penalty assessments; collection, enforcement, amends N. J. S. 2C:46-1 and 2C:46-2, Ch. 252.

DOMESTIC RELATIONS

Child support proceedings, interstate; transferred to county welfare agencies, amends C. 2A:4-30.36 et al., Ch. 87.
 Income execution on unemployment benefits; for alimony, maintenance, child support payments, amends C. 2A:17-56.8, Ch. 53.
 "Support Enforcement Act of 1985," C. 2A:17-56.16 et seq., amends C. 2A:17-56.8 et al., repeals C. 2A:17-56.15, Ch. 278.

DRUGS

Controlled dangerous substances, certain; possession by motor vehicle operators, prohibited, amends C. 39:4-49.1, Ch. 239.
 "New Jersey Controlled Dangerous Substances Act"; definitions, clarified, amends C. 24:21-2, Ch. 134.

ELECTIONS

Absentee ballot distribution, substitute candidate selection dates changed, amends N. J. S. 18A:9-10 et al., Ch. 92.
 Voters, illiterate; assistance, amends C. 19:31A-8 and R. S. 19:50-3, Ch. 20.

ENVIRONMENT

Air pollution violations; penalties, increased, amends C. 26:2C-14 et al., Ch. 12.
 "Clean Communities and Recycling Act," C. 13:1E-99.1 et seq., amends C. 13:1E-92 et al., Ch. 533.
 Flood control; rivers, certain, Ch. 472.
 Hazardous Discharge Site Cleanup Fund, established, C. 58:10-23.34; repeals P. L. 1981, Ch. 406; Ch. 247.
 Hazardous substances; discharges; cleanup cost; lien priority, modified, amends C. 58:10-23.11f, Ch. 11.
 Hazardous substances; discharges; cleanup services; liability of contractors, limited, C. 58:10-23.11 g1, Ch. 461.
 Hazardous substances; transportation, regulated, C. 39:5B-30 et seq., amends C. 39:5B-28 and 39:5B-29, repeals C. 39:5B-1 et seq., Ch. 415.
 Hazardous substances; violations; statute of limitations, five years from discovery, amends N. J. S. 2C:17-2 and C. 13:1E-9, Ch. 348.
 New Jersey Spill Compensation Fund, transfer to Department of Environmental Protection, from Department of Treasury, C. 58:10-23.11j1 et seq., amends C. 58: 10-23.11f et al., Ch. 115.
 Oil, natural gas operations; Department of Environmental Protection permits, required, C. 13:1M-1 et seq., Ch. 432.
 "Pinelands Development Credit Bank Act," C. 13:18A-30 et seq., Ch. 310.
 Radon gas, progeny contamination studies; by Departments of Environmental Protection, Health; mandated, C. 26:2D-59 et seq., Ch. 408.
 Reservoirs, dams, certain; construction, repair; permit requirement exemptions, amends R. S. 58:4-1, Ch. 33.
 "Toxic Catastrophe Prevention Act," C. 13:1K-19 et seq., Ch. 403.
 Waterfront developments, unapproved; additional enforcement powers, Department of Environmental Protection, amends R. S. 12:5-6, Ch. 125.

ESTATES

- Administration, without bond; surviving spouse, certain, amends N. J. S. 3B:15-1, Ch. 34.
- Burial costs; unclaimed bodies, certain; payment out of estates; by surviving spouses, parents, amends N. J. S. 40A:9-49, Ch. 438.
- "Public Guardian for Elderly Adults Act," C. 52:27G-20 et seq., Ch. 298.
- Transfer inheritance tax, phase out, C. 54:33-14, amends R. S. 54:34-2, Ch. 57.

EXECUTIVE ORDERS

- Agricultural Financing Task Force, established, No. 95; continued, No. 120.
- Bicycle Advisory Council, established, No. 101.
- Business Retention and Job Retraining Commission, established, No. 113; expanded, No. 119.
- Certified Public Manager Society, recognized, No. 117.
- Child Abuse and Neglect, Governor's Task Force on; continued, renamed, No. 110.
- Child Support, State Commission on; established, No. 90.
- Children's Services Planning, Governor's Committee on; continued, No. 91.
- Construction permit coordination; cabinet, citizens' committees, reconstituted, No. 100.
- Criminal investigation records, certain; not deemed public records, No. 123.
- Criminal Justice, Division of; Department of Law and Public Safety; information release, certain; to Attorney Ethics, Office of, No. 96; to Civil Service, Department of, No. 111.
- Diabetes, Governor's Advisory Commission on; continued, No. 108.
- Dioxin contamination emergency, No. 40 of 1983 amended to include additional property, certain; Newark, No. 105; Paterson, No. 106; Kearny, No. 109; Sayreville, No. 114.
- Disabled Persons, Governor's Task Force on Services for; established, No. 121.
- Eastern European and Captive Nation History, Governor's Commission on; continued, No. 122.
- Elderly Abuse, Advisory Council on; established, No. 103; continued, No. 118.
- Ethnic Advisory Council; membership, increased, No. 99.
- Health, Department of; Center for Health Statistics, designated State agency for federal Cooperative Health Statistics System, No. 92.
- King, Martin Luther, Jr., Commemorative Commission; reconstituted, No. 94.
- Law Enforcement Training Academy Study Commission, established, No. 112.
- Prison overcrowding; state of emergency, continuing, No. 89, 127.
- Radon contamination emergency, No. 56 of 1983 amended to include West Orange, No. 107.
- Salaries, Commission on Executive, Legislative and Judicial; established, No. 124.
- State employees, days off; July 5, 1985, No. 104; Nov. 29, 1985, No. 125.
- Terminations; Byrne, No. 54; Kean, No. 7, 9, 13, 15, 38, 45, 48, 58, 64, 68; No. 93.
- Vocational Education; State Council on, established; Advisory Council, abolished, No. 126.
- Water supply, state of emergency; Bergen, Essex, Hudson, Morris, Passaic, Union counties; municipalities, certain, No. 97.

EXECUTIVE ORDERS (Continued)

- Water supply, state of emergency; Citizens' Advisory Committee, established, No. 98.
 Water supply, state of emergency; Statewide, supersedes No. 97; No. 102.
 Weather state of emergency; Hurricane Gloria, No. 115; terminated, No. 116.

FEDERAL RELATIONS

- Heavy vehicle use tax, federal; proof of payment, prerequisite for State registration, C. 39:3-5.1, Ch. 387.
 U. S. Department of Defense, information requested from, on nuclear accident possibility, J. R. 1.
 U. S. Environmental Protection Agency, requested to mandate nationwide onboard control systems for gasoline vapors, J. R. 6.
 U. S. Supreme Court, decision banning instruction, certain; at religiously affiliated schools; State Attorney General directed to delay implementation, J. R. 8.

FIRE SAFETY

- Arson investigators, certain; weapon-carrying, amends N. J. S. 2C:39-6 and C. 40A:14-7.1, Ch. 150.
 Fire districts, municipal; elections, budgets, C. 40A:14-78.9 et seq., amends N. J. S. 40A:14-70 et al., Ch. 288.
 Fire safety commission, membership increased to 20, amends C. 52:27D-25e, Ch. 90.
 Joint equipment purchases, municipal governing bodies; holding of title, amends N. J. S. 40A:14-34, Ch. 19.
 Red emergency warning lights, sirens, permitted; vehicles of volunteer chiefs, assistants, C. 39:3-54.15 et seq., Ch. 171.
 "Safe and Clean Neighborhoods," additional funds; apportionment to municipalities, fire districts, certain, C. 52:27D-118.17 et seq., Ch. 295.
 Volunteer fire companies, membership ineligibility, conviction of certain crimes, C. 15:8-1.1, Ch. 323.
 Volunteer firefighters, certain; paid time off from county employment, C. 11:24A-2.1, Ch. 339.

FIRST AID AND RESCUE SQUADS

- Joint equipment purchases, local governing bodies, permitted, amends R. S. 40:5-2, Ch. 19.
 Volunteer members, certain; paid time off from county employment, C. 11:34A-2.1, Ch. 339.

FISH AND GAME

- Deer-hunting; illegal use of illuminating devices, weapon ban widened, amends R. S. 23:4-45, Ch. 509.
 Fish, netting; license fees, revised, amends C. 23:5-24.2, Ch. 108.
 "Free fishing" days, established, C. 23:3-1b, Ch. 352.
 Striped bass, limits, reduced, amends C. 23:5-44 et al., Ch. 211.

FOOD AND BEVERAGES

- Bottlers, nonalcoholic beverages, for direct retail sale; State licensing requirement eliminated, amends R. S. 24:12-5, Ch. 443.

FOOD AND BEVERAGES (Continued)

Hackensack Meadowlands Food Distribution Center; site designation, in region of Meadowlands district, permitted, C. 13:17A-4.1, amends C. 13:17A-2 et al., Ch. 499.

"South Jersey Food Distribution Authority Law," C. 4:26-1 et seq., Ch. 383.

GAMES AND GAMBLING

"Casino Control Act," revisions; authorized games, slot machines, licensing information, baccarat tables, amends C. 5:12-5 et al., Ch. 350.

Casino licensees; check-cashing, certain, amends C. 5:12-101, Ch. 245.

Casino licensees, reinvestment obligations; letters of credit, permitted; fines, increased, amends C. 5:12-144.1, Ch. 183.

Casino licensees; set-aside contracts, mandated; minority, women's businesses, C. 5:12-184 et seq., amends C. 5:12-63, Ch. 539.

Lottery, State; prize money, certain; claim deadline, extended, Ch. 27.

Raffles; conduct by senior citizen groups, certain; permitted, C. 5:8-51.1 and 5:8-51.2, amends C. 5:8-51 et al., Ch. 299.

GUARDIANSHIP

Mentally incompetent persons, certain; appointment for, C. 30:4-165.12 et seq., amends C. 30:4-165.4 et al., repeals C. 30:4-165.9 and 30:4-165.10, Ch. 133.

"Public Guardian for Elderly Adults Act," C. 52:27G-20 et seq., Ch. 298.

HANDICAPPED PERSONS

"Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Act," C. 18A:72H-1 et seq., Ch. 493.

Parking for, mandated; multiple dwellings, certain, C. 55:13A-7.3 and 55:13A-7.4, Ch. 280.

"Personal Attendant Act," C. 30:4G-1 et seq., Ch. 307; sundry amendments, amends C. 30:4G-2 et al., Ch. 524.

Transportation, free, low-cost; provision by municipalities, authorized, C. 40:48-4.10 et seq., Ch. 199.

HEALTH

Hypertension control program, expansion, C. 26:2-124 et seq., Ch. 5.

Hypodermic needles, syringes; destruction method, additional, permitted, amends C. 2A:170-25.17, Ch. 96.

Huntington's disease; residential care facility, feasibility study, directed, J. R. 3.

Lead poisoning; testing of children, certain; mandated, C. 26:2-130 et seq., repeals C. 24:14A-12, Ch. 84.

New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care, established, C. 52:9Y-1 et seq., Ch. 363.

New Jersey State Commission on Cancer Research, membership, increased to 11, amends C. 52:9U-4, Ch. 144.

Poison Prevention Week, March 17-23, 1985, J. R. 2.

Radon gas, progeny contamination studies; by Departments of Environmental Protection, Health; mandated, C. 26:2D-59 et seq., Ch. 408.

Smoking; employment, places of, certain; regulated, C. 26:3D-23 et seq., Ch. 184.

Smoking; government buildings, certain; regulated, C. 26:3D-46 et seq., Ch. 381.

Smoking; indoor public places, certain; regulated, C. 26:3D-38 et seq., Ch. 318.

HEALTH (Continued)

Smoking; public conveyances, certain; petty disorderly persons offense, amends N. J. S. 2C:33-13, Ch. 187.

Smoking; restaurants; regulation, optional, C. 26:3E-7 et seq., Ch. 185.

Smoking; retail food stores, certain; prohibited, C. 26:3D-32 et seq., Ch. 186.

Vital records; storage, fire-resistant area, amends R. S. 26:8-8, Ch. 194.

HIGHWAYS AND ROADS

New Jersey Turnpike; interchange, certain; construction permitted, C. 27:23-23.6, Ch. 517.

Reflectors, as lane markers; road repair, construction, certain, C. 27:7-11.1, Ch. 61.

Route 15 Freeway extension, authorized, in Sussex County, Ch. 502.

HOSPITALS

Anatomical gifts; ascertainment, recording, C. 26:6-60.1 and 26:6-60.2, Ch. 284.

Children's Hospital of New Jersey, unit of United Medical Hospitals Center, Newark; designated State's specialty acute care children's hospital, C. 26:2H-18a and 26:2H-18b, Ch. 306.

Contributions by counties, municipalities; certain, permitted, C. 40:5-2.10c, Ch. 79.

Intermediate life support programs, pilot; authorized, C. 26:2K-21 et seq., amends C. 26:2K-12, Ch. 351.

School property, certain; conveyance to, permitted, amends N. J. S. 18A:20-9, Ch. 260.

HOUSING

Emergency shelters for homeless, regulation, C. 55:13C-1 et seq., Ch. 48.

"Fair Housing Act," C. 52:27D-301 et seq., amends C. 40:55D-28 and 40:55D-62, Ch. 222.

HUMAN SERVICES

"Division of Developmental Disabilities Act," C. 30:6D-23 et seq., amends R. S. 30:4-23 and C. 30:6D-3, Ch. 145.

Foster, adoptive parents, prospective; criminal record investigations, mandated, C. 30:4C-26.8, Ch. 396.

Guardians, appointment; mentally incompetent persons, certain, C. 30:4-165.12 et seq., amends C. 30:4-165.4 et al., repeals C. 30:4-165.9 and 30:4-165.10, Ch. 133.

Hagedorn, Sen. Garrett W., Center for Geriatrics; Glen Gardner Center, re-designated, amends R. S. 30:1-7, Ch. 425.

Head-injured persons; study, mandated, Ch. 481.

Medicaid applicants, discrimination against by nursing facilities, certain, prohibited; gifts, certain, to facilities banned; divestitures, certain, of assets proscribed, C. 10:5-12.2 et al., amends C. 10:5-5 et al., Ch. 303.

Medicaid; eligibility expansion; effective date, postponed; amends Ch. 371, s. 5; Ch. 510.

Medicaid; eligibility expansion; services, certain, amends C. 30:4D-3, et al., Ch. 371.

Medicaid; governmental peer grouping system of skilled nursing, intermediate care facilities; authorized, amends C. 30:4D-3 and 30:4D-7, Ch. 474.

"Personal Attendant Act," C. 30:4G-1 et seq., Ch. 307; sundry amendments, amends C. 30:4G-2 et al., Ch. 524.

HUMAN SERVICES (Continued)

- Pharmaceutical Assistance to the Aged and Disabled**; diabetic testing materials, added, amends C. 30:4D-22, Ch. 55.
- Pharmaceutical Assistance to the Aged and Disabled, Lifeline Assistance programs**; maximum income eligibility, increased, amends C. 30:4D-21 et al., Ch. 291.
- Self-Help Clearinghouse**, established, in Division of Mental Health and Hospitals, C. 30:9B-1 et seq., Ch. 296.
- Youth suicide prevention program**, established, C. 30:9A-12 et seq., Ch. 195.

INSURANCE

- African Development Bank**; investments in, certain; permitted, domestic insurers, amends N. J. S. 17B:20-1 and C. 17:2-9.3, Ch. 309.
- Automobile**; sundry revisions, including surcharges, options, dangerous drivers, underwriting association, risk exchange, death benefits, C. 17:29C-2.1 et al., amends C. 17:29A-35 et al., Ch. 520.
- Ball bonds, motor vehicle violations**; issued by automobile associations, maximum increased to \$500, amends C. 17:31-6 et seq., Ch. 270.
- Claim verification, certain**; notarization requirement, deleted, amends C. 17:33A-6, Ch. 358.
- County colleges**; joint self-insurance funds, permitted, C. 18A:64A-25.33 et seq., amends C. 18A:64A-25.28, Ch. 204.
- Fire, real property**; claim payment, subject to municipal ordinances, amends C. 17:36-8 et seq., Ch. 519.
- Health policies, group**; maternity benefits, mandated, C. 17B:27-46.16, amends C. 17B:27-46.7, Ch. 277.
- Health policies**; maternity benefits, mandated, C. 17B:26-2.1b, amends C. 17B:26-2.6, Ch. 275.
- Hospital service contracts**; maternity benefits, mandated, C. 17:48-6c, Ch. 276.
- Information, certain**; collection, use, disclosure; regulated, C. 17:23A-1 et seq., Ch. 179.
- Investments, first mortgages, ceiling increased**; insurers, certain, amends N. J. S. 17B:20-1 and 17B:20-2, Ch. 485.
- Life**; standard valuation law, revised; reserve liability requirements, certain; reduced, amends N. J. S. 17B:19-8, Ch. 477.
- Medical service contracts**; maternity benefits, mandated, C. 17:48A-7c, amends C. 17:48A-6.5, Ch. 274.
- Nonprofit health service corporations, establishment, authorized**, C. 17:48E-1 et al., Ch. 236.
- Out-of-State companies, certain**; special purpose assessments excluded from retaliatory tax computations, amends C. 17:32-15, Ch. 88.
- Psychologists**; disclosure, confidential information, to third-party payers; patient authorization, C. 45:14B-31 et seq., Ch. 256.
- Sureties**; discrimination by, prohibited; minority, women's businesses, C. 17:31-9, Ch. 80.
- Surplus lines**; regulation by agent organization, authorized; financial requirements, unauthorized insurers, C. 17:22-6.55a, amends C. 17:22-6.45, Ch. 16.
- Taxable premiums**; calculation method, revised, amends C. 54:18A-6, Ch. 294.
- Unsatisfied Claim and Judgment Fund, Board, transfer to Department of Insurance**; auto body repair facility regulation, transfer to Division of Motor Vehicles, C. 39:6-64a and 39:6-64b, amends C. 39:6-62 et al., Ch. 148.

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- African Development Bank; investments in, certain; permitted, amends C. 17:2-9.3 and N. J. S. 17B:20-1, Ch. 309.
- State pension, annuity funds; ban on future Republic of South Africa investments, divestiture over three years of existing, C. 52:18A-89.1 et seq., Ch. 308.

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- Delaware River Joint Toll Bridge Commission; supplemental compact, authorized; new toll bridge, Easton, Pa.-Phillipsburg, C. 32:8-17 et seq., repeals C. 27:12D-1 et seq., Ch. 342.
- Delaware River Joint Toll Bridge Commission; toll imposition, authorized; bridges, certain, C. 32:8-23, Ch. 343.
- Waterfront and Airport Commission of New York and New Jersey; port watchmen's licenses; indefinite validity, cancellation, C. 32:23-43.1 and 32:23-44.1, Ch. 32.

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- Abduction protection, model curriculum, J. R. 9.
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- Municipal court, provision for additional, by governing body, C. 2A:8-5a et seq., repeals N. J. S. 2A:8-6 et al., Ch. 46.
- Superior Court; Atlantic County, one additional, amends N. J. S. 2A:2-1, Ch. 388.
- Superior Court; Essex County, two additional, amends N. J. S. 2A:2-1 and C. 2A:2-1.3, Ch. 507.
- Superior Court; Hudson County, two additional, amends N. J. S. 2A:2-1, Ch. 313.
- Superior Court; Middlesex County, two additional, amends N. J. S. 2A:2-1, Ch. 319.
- Superior Court; Ocean County, two additional, amends N. J. S. 2A:2-1, Ch. 453.
- Superior Court; Somerset County, one additional, amends N. J. S. 2A:2-1, Ch. 319.

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- Asbestos workers, permits; examination waiver, extended, amends C. 34:5A-39, Ch. 523.
- Commissioner; replaced by Commissioner, Commerce and Economic Development; Coastal Area Review Board, Clean Air Council, amends C. 13:19-13 and 26:2C-3.2, Ch. 430.
- Department of; steam, hot water boilers, certain; inspection interval increase, permitted, amends R. S. 34:7-14 and 34:7-15, Ch. 109.

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- Department of; wage collection section, jurisdiction, increased to \$2,000, amends R. S. 34:11-58 and 34:11-62, Ch. 135.
- Minimum wage, exemption; volunteers, fairs; nonprofit, religious associations, amends C. 34:11-56a4, Ch. 132.
- Retirement from employment, mandatory, certain; prohibited, C. 10:5-2.2 and 10:5-12.1, amends C. 10:3-1 et al., Ch. 73.
- "Worker and Community Right to Know Act," employer deadlines, certain, extended; C. 34:5A-13.1, amends C. 34:5A-7 et al., Ch. 64; amends C. 34:5A-7 et al., repeals C. 34:5A-13.1, Ch. 216.
- "Worker and Community Right to Know Act," employer exemptions, absence of hazardous substances; fee refunds, C. 34:5A-26.1, amends C. 34:5A-8, Ch. 534.
- "Worker and Community Right to Know Act," employers, covered; additions, deletions, amends C. 34:5A-3, Ch. 543.

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- "Homestead Tax Relief Act," C. 54A:3A-1 et seq., amends N. J. S. 54A:4-3, Ch. 304.
- Lease termination; death; disability, certain; of lessee, C. 46:8-9.2 and 46:8-9.3, amends C. 46:8-21.1 et al., Ch. 317.
- Parking for handicapped, mandated; multiple dwellings, certain. C. 55:13A-7.3 and 55:13A-7.4, Ch. 280.
- Security deposits, certain; investment in money market funds, accounts, C. 46:8-19.1, amends C. 46:8-19 et al., Ch. 42.
- Utility service, wrongful diversion, from tenants; civil actions against landlords, certain; permitted, amends C. 2A:42-85 et al., Ch. 411.

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- New Jersey Law Revision Commission; established in Legislative Branch, C. 1:12A-1 et seq., amends C. 52:11-61, Ch. 498.
- Office of Legislative Services, reorganization, amends C. 52:11-56 et al., Ch. 162.

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- County appropriations, second-level services; ceiling, eliminated, amends C. 40:33-19, Ch. 240.
- County, municipal; municipal contributions, annual reports, county commissions, municipal withdrawals, C. 40:54-8.1 et al., amends R. S. 40:54-8 et al., Ch. 541.
- Municipal budget "cap" law exemption; free public, funding, amends C. 40A:4-45.3 and R. S. 40:54-8, Ch. 82.
- Records, confidentiality, C. 18A:73-43.1 et seq., Ch. 172.
- State aid to certain, C. 18A:74-3.2 et seq., Ch. 297.
- Theft of material; detention of suspects, authorized; civil action for damages, C. 2C:20-12 et al., Ch. 373.

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- "Boat Ownership Certificate Act," effective date, postponed; amends P. L. 1984, Ch. 152, s. 30; Chs. 75, 467.
- Sailboats, certain; exemption from number display requirement, amends C. 12:7-34.38 and 12:7-34.39, Ch. 56.

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- Public institutions, higher education; resident tuition fees; personnel, dependents, C. 18A:62-4.1, Ch. 231.
- Real property tax deductions, exemptions; veterans', extended to surviving spouses, instead of widows, amends R. S. 54:4-3.7 et al., Ch. 515.
- Real property tax deductions; veteran's, senior citizen's-disabled; both allowed, amends C. 54:4-8.17 and 54:4-8.41, Ch. 200.
- Teachers, service credit; employment, seniority, C. 18A:28-11.1, amends N. J. S. 18A:28-12, Ch. 217.
- Veterans' annuities, certain; extended to surviving spouses, amends R. S. 38:18-2 et al., Ch. 116.
- Vietnam Veterans' Memorial Committee, established, in Department of State; Vietnam Veterans' Memorial Fund, established in Department of Treasury, C. 52:18A-208, Ch. 494.
- Vietnam veterans, tuition assistance, C. 18A:71-76.1 et seq., Ch. 114.

MINORITIES

- New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; bank loans, assistance packages, certain; permitted C. 17:9A-24.14, Ch. 385.
- New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; established, C. 34:1B-47 et seq., Ch. 386.
- "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses," amends C. 52:32-17 et al., Ch. 384.
- Set-aside contracts for minority, women's businesses; by casino licensees, mandated, C. 5:12-184 et seq., amends C. 5:12-63, Ch. 539.
- Set-aside programs for small, women's, minority businesses; by boards of education, authorized, C. 18A:18A-51 et seq., amends R. S. 10:2-1 et al., Ch. 490.
- Set-aside programs for small, women's, minority businesses; by counties, municipalities; authorized, C. 40A:11-41 et seq., Ch. 482.
- Sureties; discrimination by, prohibited; minority, women's businesses, C. 17:31-9, Ch. 80.
- "Technical Training for Minorities and Women Act," C. 18A:54D-1 et seq., Ch. 427.

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- All-terrain vehicles; registration, regulation of operation, C. 39:3C-30.1, amends C. 39:3C-1 et al., Ch. 375.
- Buses, interstate; drivers' licenses, required, amends R. S. 39:3-10.1, Ch. 246.
- Child restraints, optional; rental vehicles, C. 45:21-14 and 45:21-15, amends R. S. 45:21-1, Ch. 202.
- Controlled dangerous substances, certain; possession by operators, prohibited, amends C. 39:4-49.1, Ch. 239.
- Drivers' licenses; photo, optional, on renewal; 48-month duration, amends C. 39:3-10f and R. S. 39:3-10, Ch. 264.
- "Drunk Driving Victim's Bill of Rights," C. 39:4-50.9 et seq., Ch. 442.
- Federal heavy vehicle use tax, proof of payment, prerequisite for State registration, C. 39:3-5.1, Ch. 387.
- Inspection, authorized; vehicles transporting hazardous materials, C. 39:5B-30 et seq., amends C. 39:5B-28 and 39:5B-29, repeals C. 39:5B-1 et seq., Ch. 415.

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- Motorcycles, passenger restrictions, amends C. 39:3-76.5 and 39:3-76.7, Ch. 15.
- Omnibuses; flashing devices, emergency, permitted, amends R. S. 39:3-54, Ch. 536.
- "Parking Offenses Adjudication Act," C. 39:4-139.2 et seq., repeals C. 39:4-139.1, Ch. 14.
- Point assessment; destruction of agricultural, recreational property, C. 39:4-97a and 39:5-30.5a, Ch. 154.
- Registration plates, National Guard members; Minuteman emblem, authorized, amends C. 39:3-27.13 and 39:3-27.14, Ch. 488.
- Sales, direct, to consumers; new, certain; limited to franchisees, C. 56:10-26 et seq., Ch. 361.
- Traffic control signal, flashing red; motorist's obligation increased, amends R. S. 39:4-119, Ch. 59.
- Unsatisfied Claim and Judgment Fund, Board, transfer to Department of Insurance; auto body repair facility regulation, transfer to Division of Motor Vehicles, C. 39:6-64a and 39:6-64b, amends C. 39:6-62 et al., Ch. 148.
- Violations; bail bonds, issued by automobile associations, maximum increased to \$500, amends C. 17:31-6 et seq., Ch. 270.

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- Budgets, "cap" base; inclusion of police vehicles, equipment, C. 40A:4-45.3c, Ch. 166.
- Budgets, "cap" law exemption; free public library funding, amends C. 40A:4-45.3 and R. S. 40:54-8, Ch. 82.
- Budgets, "cap" law exemption; insurance premium increases, C. 40A:4-45.29, Ch. 522.
- Budgets, "cap" law exemption; police vehicles, equipment, amends C. 40A:4-45.3, Ch. 22.
- Budgets, "cap" law exemption; solid waste disposal expenditures, certain, C. 40A:4-45.26 and 40A:4-45.27, Ch. 164.
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- Budgets, 1985; introduction, approval, adoption dates, Ch. 43.
- Clerks, certification, C. 40A:9-133.2 et seq., amends N. J. S. 40A:9-134, Ch. 174.
- Construction permit fee waiver; counties, municipalities, C. 52:27D-126c, Ch. 409.
- Contributions to hospitals, certain; permitted, C. 40:5-2.10c, Ch. 79.
- Developers' deposits, certain; escrow accounts; budget "cap" law exemption for interest, C. 40:55D-53.1 and 40A:4-45.28, Ch. 315.
- "Fair Housing Act," C. 52:27D-301 et seq., amends C. 40:55D-28 and 40:55D-62, Ch. 222.
- Hammonton, town of; charter amended; overseer, streets, highways; elective to appointive position, Ch. 399.
- "Hardyston Township Charter (1985)," Ch. 327.
- Joint activities; prepayments, certain; permitted, C. 40A:5-16.3, Ch. 419.
- Joint purchases; fire, first aid equipment; holding of title, amends N. J. S. 40A:14-34 and R. S. 40:5-2, Ch. 19.
- Mayor-council-administrator plan; departments, establishment; administrator's term of office, C. 40:69A-149.8a, amends C. 40:69A-149.8 and 40:69A-149.9, Ch. 458.
- Mayor-council form of government; separation of powers, certain; delineated, C. 40:69A-37.1 and 40:69A-43a, amends C. 40:69A-32 et al., Ch. 374.

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- Mayor-Council Plan C; appointees, additional, certain, amends C. 40:69A-60.1 and 40:69A-60.5, Ch. 159.
- "Municipal Land Use Law," revised, C. 40:55D-10.4 et al., amends C. 40:55D-2 et al., Ch. 516.
- Real property, capital improvements, certain; resales by private developers, subject to municipal requirements, amends C. 40A:12-13, Ch. 535.
- Real property, surplus, certain; conveyance, nonprofit organizations; residential rehabilitation, amends C. 40A:12-21, Ch. 412.
- Recycling grants; restrictions relaxed, bonuses authorized, amends C. 13:1E-96, Ch. 346.
- School districts; donations to, certain; authorized, C. 40:48-17.8, Ch. 54.
- Set-aside programs for small, women's, minority businesses; by counties, municipalities; authorized, C. 40A:11-41 et seq., Ch. 482.
- Solar energy heating, cooling systems, certain; exemption from construction permit fees, C. 52:27D-130.2 and 52:27D-130.3, Ch. 85.
- Street vacation ordinances; exception, public utility facilities, amends R. S. 40:67-1, Ch. 421.
- Sunday Closing Law; exemption, certain, Ch. 163.
- Sunday sales referenda; municipalities, certain; permitted, C. 2A:171-5.24 and 2A:171-5.25, Ch. 417.
- Tax collectors; educational, experiential requirements, amends C. 40A:9-145.2 and 40A:9-145.5, Ch. 9.
- Urban enterprise zones, designations; eligibility; areas within two or more municipalities, certain, C. 52:27H-69.1, amends C. 52:27H-69, Ch. 391.
- Urban enterprise zones, designation; restrictions eased, C. 52:27H-30.1, amends C. 52:27H-66, Ch. 142.
- Urban enterprise zones; included in "blighted area" definitions, certain, amends C. 40:55C-45 and 40:55C-82, Ch. 435.
- Utilities authorities; escrow accounts; deposits, certain, C. 40:14B-20.1, Ch. 316.

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- Medicaid applicants; discrimination against, certain, prohibited; gifts, certain, to facilities banned; divestitures, certain, of assets proscribed, C. 10:5-12.2 et al., amends C. 10:5-5 et al., Ch. 303.
- "Rooming and Boarding House Act of 1979," exemption; owner-occupied, one-family dwellings, certain, amends C. 55:13B-3, Ch. 364.
- "Rooming and Boarding House Act of 1979," violations, certain, criminal offenses; personal liability, corporate officers, directors, C. 55:13B-11.1 and 55:13B-11.2, amends C. 55:13B-10, Ch. 413.

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- Alternate benefit program; institutions of higher education, certain; State contribution, 8% of base salary, amends C. 18A:66-174, Ch. 71.
- Counties; financing, actuarial liabilities, certain, C. 40A:2-51.1, Ch. 67.

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- Counties; insurance contracts, certain; authorized, to fund actuarial liabilities, C. 40A:11-15.1, Ch. 68.
- County employees, certain; vesting, after 10 years, amends R. S. 43:10-2, Ch. 354.
- County pension commissions, certain; nomination procedures, altered, amends C. 43:10-18.3, Ch. 445.
- Health insurance premiums; payment by local units, certain, amends N. J. S. 40A:10-23, Ch. 224.
- Municipal retirement systems, certain; annual death benefits per surviving minor child, maximum increased to \$2,500, amends C. 43:13-22.56, Ch. 281.
- Police and Firemen's Retirement System; Bureau of Forest Fire Management, Department of Environmental Protection; job titles, certain; changed, amends C. 43:16A-1, Ch. 377.
- Police and Firemen's Retirement System; Corrections, Department of; job titles, certain; added, amends C. 43:16A-1, Ch. 470.
- Police and Firemen's Retirement System; county welfare investigators, transfer to, C. 43:16A-62.3, amends C. 43:16A-1, Ch. 221.
- Police and Firemen's Retirement System; fire district, certain; adoption, C. 43:16A-47.1, Ch. 141.
- Police and Firemen's Retirement System; members, certain; job titles changed, amends C. 43:16A-1, Ch. 262.
- Police and Firemen's Retirement System; membership transfer, certain; from Public Employees' Retirement System, Ch. 155.
- Police and Firemen's Retirement System; purchase of service credit, certain, C. 43:16A-11.9, Ch. 450.
- Police and Firemen's Retirement System; reclassified employees, certain; titles added, C. 43:16A-1.1, amends C. 43:16A-1, Ch. 29.
- Police and Firemen's Retirement System; surviving spouses, certain; pensions increased, C. 43:3B-8.1, amends C. 43:16A-12.1, Ch. 393.
- Police and Firemen's Retirement System; survivors' benefits, children; students, certain, amends C. 43:16A-1, Ch. 525.
- Public Employees' Retirement System; elected officials, certain; pension eligibility, C. 43:15A-47.2, Ch. 414.
- Public Employees' Retirement System; law enforcement officers, certain; job titles changed, amends C. 43:15A-97, Ch. 262.
- Public Employees' Retirement System; membership, continuation, within 10 years of discontinuance, amends C. 43:15A-8, Ch. 532.
- Public Employees' Retirement System; reactivation of accounts, certain, C. 43:15A-57.3, Ch. 283.
- Public Employees' Retirement System; surviving spouse, elimination of benefits, notification, C. 43:15A-50a, Ch. 382.
- Public Employees' Retirement System; temporary employees, certain; eligible for membership, amends C. 43:15A-7, Ch. 121.
- Public Employees' Retirement System; temporary employees, certain; purchase of credit, Ch. 226.
- Public Employees' Retirement System; veterans' allowance, 35 years' service, amends C. 43:15A-61, Ch. 220.
- Sheriff's employees' retirement system; vesting, after 10 years, C. 43:10-69.1, amends R. S. 43:10-61 et al., Ch. 218.

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- State pension, annuity funds; ban on future Republic of South Africa investments, divestiture over three years of existing, C. 52:18A-89.1 et seq., Ch. 308.
- State Police Retirement System; mandatory retirement, age 55, amends C. 53:5A-8, Ch. 175.
- State Police Retirement System; pension benefits, surviving spouse, amends C. 53:5A-3 et al., Ch. 355.
- Teachers' Pension and Annuity Fund; purchase of service credit, certain, amends N. J. S. 18A:66-13, Ch. 454.
- Teachers' Pension and Annuity Fund; surviving spouse, elimination of benefits, notification, C. 18A:66-47.1, Ch. 382.

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- "Fair Housing Act," C. 52:27D-301 et seq., amends C. 40:55D-28 and 40:55D-62, Ch. 222.
- "Municipal Land Use Law," revised, C. 40:55D-10.4 et al., amends C. 40:55D-2 et al., Ch. 516.
- "Pinelands Development Credit Bank Act," C. 13:18A-30 et seq., Ch. 310.
- Staged development, nonresidential, permitted, amends C. 40:55D-52, Ch. 93.
- "State Planning Act," C. 52:18A-196 et seq., amends C. 52:9S-3 et al., repeals C. 13:1B-5.1 et al., Ch. 398.

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- Andover, township of; appointment, permanent, certain; civil service test waiver, Ch. 441.
- Campus police officers; weapon-carrying, certain, authorized; powers expanded, amends N. J. S. 2C:39-6 and C. 18A:6-4.5, Ch. 376.
- Crime Prevention Advisory Committee, resource center, established, C. 52:17B-77.1 et al., amends C. 52:17B-71, Ch. 1.
- Housing, certain; appointment procedure, C. 11:21-5.5, Ch. 484.
- Housing, certain; appointment, subject to civil service; powers, expanded, C. 40A:14-146.2a, amends C. 40A:14-146.2 and 40A:14-146.3, Ch. 52.
- Municipal; reimbursement for legal expenses, limited, amends N. J. S. 40A:14-155, Ch. 457.
- Pagano Building, New Jersey State Police Station, Hope Township, J. R. 5.
- "Safe and Clean Neighborhoods"; additional funds, apportionment to municipalities, C. 52:27D-118.11 et seq., Ch. 170.
- "Special Law Enforcement Officers' Act," C. 40A:14-146.8 et seq., amends N. J. S. 2C:39-6, repeals N. J. S. 40A:14-146, Ch. 439.
- Special officers, certain; off-duty, weapon-carrying; training requirements, amends N. J. S. 40A:14-146, Ch. 45.
- State Bureau of Investigation; criminal history record background checks, processing, in noncriminal matters; user fee, authorized, C. 53:1-20.5 et seq., Ch. 69.
- State Police; computer system, firearms application processing; feasibility study, authorized, Ch. 473.
- State Police; mandatory retirement, age 55, amends C. 53:5A-8, Ch. 175.
- Training, county investigators; Police Training Commission, transferred to Division of Criminal Justice, Department of Law and Public Safety, amends C. 52:17B-67 et al., Ch. 491.

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- Alarm business; defined, business permit exemption, C. 45:5A-18.1, amends C. 45:5A-18, Ch. 289.
- Board of Pharmacy, membership, increased to nine, amends R. S. 45:14-1, Ch. 89.
- Check-cashers; capital, liquid asset requirements, increased, amends C. 17:15A-5 et al., Ch. 219.
- Chiropractors, licensees in other states; application procedure, temporary, Ch. 255.
- Cosmetologists-hairstylists; public school program requirements, amends C. 45:5B-17 and 45:5B-20, Ch. 272.
- Health-care professional review committee members, certain; civil immunity, amends C. 2A:84A-22.10, Ch. 506.
- Land surveyors; educational requirements, increased, amends C. 45:8-35, Ch. 31.
- Podiatric, orthopedic, urologic X-ray technologists; licensing, amends C. 26:2D-26 et al., Ch. 540.
- Psychologists; disclosure, confidential information, to third party payers; patient authorization, C. 45:14B-31 et seq., Ch. 256.
- Real estate brokers, salesmen; inactive licenses, renewal; 90-day grace period, Ch. 180.
- State Athletic Control Board, established; for regulation of public boxing, wrestling, kick boxing, combative sports events, C. 5:2A-1 et seq., amends C. 40:48-8.16, repeals R. S. 5:2-1 et al., Ch. 83.
- State Board of Professional Engineers and Land Surveyors, membership, increased to 10, amends C. 45:8-29 et al., Ch. 146.
- Veterinary practice law, revised, amends R. S. 45:16-1 et al., Ch. 495.

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- Bid thresholds, certain; increased, amends N. J. S. 18A:39-3 et al., Ch. 469.
- County law library purchases, certain; public bidding exemption, amends C. 40A:11-5, Ch. 436.
- Health care facilities, certain; joint purchases, permitted, C. 30:9-87 and 30:9-88, Ch. 287.
- Joint agreements, sewage sludge disposal, permitted, amends C. 40A:11-10 et al., Ch. 452.
- Local public contracts; bid threshold, increased, amends C. 40A:11-3 et al., Ch. 60.
- Local public contracts; revisions, addenda; notification to potential bidders, certain; required, amends C. 40A:11-23, Ch. 429.
- Office of Legislative Services; goods, services; direct award, amends C. 52:11-64, Ch. 98.
- Out-of-State bidders, certain; reciprocal discrimination, authorized, C. 52:32-1.3 et seq., Ch. 156.
- Public school contracts; public bidding exemption, food service, amends N. J. S. 18A:18A-5 et al., Ch. 527.
- "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses," amends C. 52:32-17 et al., Ch. 384.
- Set-aside programs for small, women's, minority businesses; by boards of education, authorized, C. 18A:18A-51 et seq., amends R. S. 10:2-1 et al., Ch. 490.

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- Set-aside programs for small, women's, minority businesses; by counties, municipalities; authorized, C. 40A:11-41 et seq., Ch. 482.
- State contracts; bid threshold, increased, amends R. S. 52:25-23 and C. 52:34-7, Ch. 107.
- State contracts; bid threshold, indexing; construction, threshold increased, C. 52:34-7.1, amends C. 52:34-7, Ch. 349.
- University of Medicine and Dentistry of New Jersey; bid threshold, \$12,500; in lieu of "State Public Contracts Law" amount, amends C. 18A:64G-6, Ch. 514.

PUBLIC EMPLOYEES

- New Jersey State Employees' Deferred Compensation Plan; employees of independent bodies, participation permitted, amends C. 52:18A-174, Ch. 449.
- New Jersey State Health Benefits Program; extended care facility, home health agency benefits; prior hospitalization requirement eliminated, amends C. 52:14-17.29, Ch. 428.
- "Public Employee Charitable Fund-Raising Act," C. 52:14-15.9c1 et seq., repeals C. 52:14-15.9c, Ch. 140.
- Retirement, mandatory, certain; prohibited, C. 10:5-2.2 and 10:5-12.1, amends C. 10:3-1 et al., Ch. 73.
- "Worker and Community Right to Know," employer deadlines, certain, extended; C. 34:5A-13.1, amends C. 34:5A-7 et al., Ch. 64; amends C. 34:5A-7 et al., repeals C. 34:5A-13.1, Ch. 216.

PUBLIC UTILITIES

- Board of Public Utilities, hearings; notice to affected municipalities, counties, C. 48:2-32.2a and 48:2-32.2b, amends C. 48:2-32.2 and 48:2-32.4, Ch. 203.
- Cable television, rate, reduction or discount, permitted; for senior citizens, certain, C. 48:5A-11.1 et seq., Ch. 356.
- Diversion of service, wrongful, from tenants; civil actions against landlords, certain; permitted, amends C. 2A:42-85 et al., Ch. 411.
- Street vacation ordinances, municipal; exception, public utility facilities, amends R. S. 40:67-1, Ch. 421.

RACING

- Dog sled, certain; permitted, C. 4:15-14, amends R. S. 4:22-16, repeals R. S. 4:22-25, Ch. 433.
- Garden State Racetrack; parimutuel pools, distribution, amends C. 5:5-98, Ch. 129.
- Officials, certain; appointment by New Jersey Racing Commission, amends C. 5:5-33 and 5:5-37, Ch. 128.
- "Simulcasting Racing Act," C. 5:5-110 et seq., amends C. 5:5-62 et al., repeals C. 5:5-100 et al., Ch. 269.

REAL PROPERTY

- Condominium, termination; percentage requirement, amends C. 46:8B-26, Ch. 3.
- "Homestead Tax Relief Act," C. 54A:3A-1 et seq., amends N. J. S. 54A:4-3, Ch. 304.
- Right of first refusal; former owners, certain; land State acquired, C. 52:31-1.4 and 52:31-1.5, Ch. 201.

REAL PROPERTY (Continued)

- Solar energy heating, cooling systems, certain; exemption from municipal construction permit fees, C. 52:27D-130.2 and 52:27D-130.3, Ch. 85.
- Transfer fee, exemption; following entry of divorce decree, certain, amends C. 46:15-10, Ch. 17.
- Transfer fees, increased, amends C. 46:15-5 et al., Ch. 225.
- Water district assessments; exemptions, certain, amends R. S. 40:62-101 et al., Ch. 191.

RECREATION

- Ski facility; State real property used for, conveyance to lessees, Ch. 326.

REFERENDA

- "Simulcasting Racing Act," C. 5:5-110 et seq., amends C. 5:5-62 et al., repeals C. 5:5-100 et al., Ch. 269.
- Sunday sales, C. 2A:171-5.22 and 2A:171-5.23, amends C. 2A:171-5.10 et al., Ch. 271.
- Sunday sales; municipalities, certain; permitted, C. 2A:171-5.24 and 2A:171-5.25, Ch. 417.

SCHOOLS

- Abduction protection, model curriculum; development directed, J. R. 9.
- Board of education elections; ballot position drawings, time, amends N. J. S. 18A:14-13, Ch. 49.
- Budgets; "adjusted net current expense budget," defined; for "cap" purposes, amends C. 18A:7A-3 and 18A:7A-25, Ch. 50.
- District of residence; children, certain; for funding purposes, amends C. 18A:7B-12, Ch. 244.
- "Effective Schools Program Act," C. 18A:6-33.7 et seq., Ch. 372.
- Fingerprinting; public school pupils, certain, C. 18A:36-29 et seq., Ch. 100.
- Free, for children living with and supported by district residents; proof required, amends N. J. S. 18A:38-1, Ch. 6.
- "Governor's Annual Teacher Recognition Act," C. 18A:29A-1 et seq., Ch. 322.
- Locker inspection, certain; permitted, C. 18A:36-19.2, Ch. 198.
- Military recruiters, access; policies, mandated, C. 18A:36-19.1, Ch. 51.
- Public school contracts; public bidding exemption, food service, amends N. J. S. 18A:18A-5 et al., Ch. 527.
- Pupil promotion, remediation; policies, procedures; adoption by local boards of education, mandated, C. 18A:35-4.9 and 18A:35-4.10, Ch. 480.
- Real property conveyance, permitted, to nonprofit hospital, amends N. J. S. 18A:20-9, Ch. 260.
- Regional board of education, nominating petition, signers restricted to voters of constituent district, amends N. J. S. 18A:14-10, Ch. 181.
- Religiously affiliated; instruction at, certain; State Attorney General directed to delay implementation of U. S. Supreme Court decision banning, J. R. 8.
- Set-aside programs for small, women's, minority businesses; by boards of education, authorized, C. 18A:18A-51 et seq., amends R. S. 10:2-1 et al., Ch. 490.
- "Teacher Quality Employment Act," C. 18A:29-5.1 et seq., amends N. J. S. 18A:29-5, repeals N. J. S. 18A:29-6 et al., Ch. 321.
- Teachers, military service credit; employment, seniority, C. 18A:28-11.1, amends N. J. S. 18A:28-12, Ch. 217.

SCHOOLS (Continued)

- Transportation, interdistrict, handicapped children; bidding procedure, options, C. 18A:39-2.1, Ch. 344.
- Transportation; to nonpublic schools, out-of-State, certain; provision by school districts, amends N. J. S. 18A:39-1, Ch. 513.
- Voting information, provision, to eligible high school pupils, C. 18A:36-27 and 18A:36-28, Ch. 41.

SECURITIES

- "Uniform Securities Law," revision, C. 49:3-61.1 et al., amends C. 49:3-48 et al., repeals C. 49:3-27 et seq., Ch. 405.

SENIOR CITIZENS

- Cable television rate, reduction or discount, permitted; for senior citizens, certain, C. 48:5A-11.1 et seq., Ch. 356.
- Intergenerational Child Care Demonstration Matching Program, established, C. 52:27D-29.14 et seq., Ch. 66.
- Nursing facility residents; notification by fiduciaries of impending fund exhaustion, C. 26:2H-47.1, Ch. 18.
- Pharmaceutical Assistance to the Aged and Disabled; diabetic testing materials, added, amends C. 30:4D-22, Ch. 55.
- Pharmaceutical Assistance to the Aged and Disabled, Lifeline Assistance programs; maximum income eligibility, increased, amends C. 30:4D-21 et al., Ch. 291.
- "Public Guardian for Elderly Adults Act," C. 52:27G-20 et seq., Ch. 298.
- Raffles; conduct by senior citizen groups, certain; permitted, C. 5:8-51.1 and 5:8-51.2, amends C. 5:8-51 et al., Ch. 299.
- Real property tax deductions; veteran's, senior citizen's-disabled; both allowed, amends C. 54:4-8.17 and 54:4-8.41, Ch. 200.
- Retirement from employment, mandatory, certain; prohibited, C. 10:5-2.2 and 10:5-12.1, amends C. 10:3-1 et al., Ch. 73.
- Transportation; free, low-cost; provision by municipalities, authorized, C. 40:48-4.10 et seq., Ch. 199.

SEWERAGE

- Authorities; escrow accounts; deposits, certain, C. 40:14A-7.3, Ch. 314.
- Passaic Valley sewerage district, boundaries altered, C. 58:14-1.2 et seq., Ch. 328.
- Passaic Valley sewerage district, boundaries altered; North Caldwell, Cedar Grove, portions, included, C. 58:14-1.6 and 58:14-1.7, Ch. 426.

SMALL BUSINESSES

- New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; bank loans, assistance packages, certain; permitted C. 17:9A-24.14, Ch. 385.
- New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; established, C. 34:1B-47 et seq., Ch. 386.
- "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses," amends C. 52:32-17 et al., Ch. 384.
- Set-aside programs for small, women's, minority businesses; by boards of education, authorized, C. 18A:18A-51 et seq., amends R. S. 10:2-1 et al., Ch. 490.
- Set-aside programs for small, women's, minority businesses; by counties, municipalities; authorized, C. 40A:11-41 et seq., Ch. 482.

SOLID WASTE

- "Clean Communities and Recycling Act," C. 13:1E-99.1 et seq., amends C. 13:1E-92 et al., Ch. 533.
- Municipal recycling grants; restrictions relaxed, bonuses authorized; tax on sanitary landfill waste, increased, amends C. 13:1E-95 and 13:1E-96, Ch. 346.
- Penalty procedures; violations, rules, regulations; collection, disposal, amends C. 13:1E-9, repeals C. 13:1E-10, Ch. 483.
- Resource recovery facilities; financing, through taxation on sanitary landfill waste disposal; contracts with private vendors, authorized, C. 13:1E-136 et al., amends C. 13:1E-20 et al., Ch. 38.
- Sanitary landfill closure account audits, exemptions, amends C. 13:1E-110, Ch. 455.
- Sanitary Landfill Closure and Rate Relief Fund, established in Department of Environmental Protection, C. 13:1E-169 et seq., Ch. 368.
- Sanitary Landfill Closure and Rate Relief Fund, technical changes; amends Ch. 368, s. 3; C. 13:1E-171, Ch. 369.

STATE

- African Development Bank; investments in, certain; permitted, public entities, amends C. 17:2-9.3 and N. J. S. 17B:20-1, Ch. 309.
- New Jersey State Employees' Deferred Compensation Plan; employees of independent bodies, participation permitted, amends C. 52:18A-174, Ch. 449.
- Pension, annuity funds; ban on future Republic of South Africa investments, divestiture over three years of existing, C. 52:18A-89.1 et seq., Ch. 308.
- Real property; surplus, certain; sale authorized, Chs. 63, 241.
- Real property, used for ski facility; conveyance to lessees, Ch. 326.
- Smoking; government buildings, certain; regulated, C. 26:3D-46 et seq., Ch. 381.
- "State Planning Act," C. 52:18A-196 et seq., amends C. 52:9S-3 et al., repeals C. 13:1B-5.1 et al., Ch. 398.
- "State Uniform Construction Code Act," enforcement powers, Department of Community Affairs, amends C. 52:27D-124, Ch. 21.
- Urban enterprise zones, designation; eligibility; areas within two or more municipalities, certain, C. 52:27H-69.1, amends C. 52:27H-69, Ch. 391.
- Urban enterprise zones, designation; restrictions eased, C. 52:27H-80.1, amends C. 52:27H-66, Ch. 142.
- Urban enterprise zones; included in "blighted area" definitions, certain, amends C. 40:55C-45 and 40:55C-82, Ch. 435.

STATUTES

- Beach commissions, repeals R. S. 40:55A-1 et seq., Ch. 238.
- Cities; finance, fire, police boards, repeals N. J. S. 40A:14-165 and 40A:14-166, Ch. 237.
- New Jersey Law Revision Commission; established, in Legislative Branch, C. 1:12A-1 et seq., amends C. 52:11-61, Ch. 498.

TAXATION

- Bus excise, fuels; exemption, certain, amends R. S. 48:4-20 et al., Ch. 207.
- Children's Trust Fund, designation of gross income tax refunds for, C. 9:6A-1 et al., Ch. 197.
- Cigarettes, packages of 25, amends C. 54:40A-8 et al., Chs. 261, 341.

TAXATION (Continued)

- Corporation business tax; exclusion, interest on indebtedness, certain; to another subsidiary of same bank holding company, amends C. 54:10A-4, Ch. 468.
- Corporation business tax; net operating loss carryover, seven years, amends C. 54:10A-4, Ch. 143.
- County; phase in, multiple-year rebates, to municipalities, amends R. S. 54:4-6, Ch. 229.
- Gross income tax, refunds; withholding for child support indebtedness, amends C. 54A:9-8.1, Ch. 278.
- Homestead rebates; withholding for child support indebtedness, amends C. 54:4-3.92a and 54A:9-8.1, Ch. 278.
- "Homestead Tax Relief Act," C. 54A:3A-1 et seq., amends N. J. S. 54A:4-3, Ch. 304.
- Insurance companies; taxable premiums; calculation method, revised, amends C. 54:18A-6, Ch. 294.
- Litter-generating products, sales, C. 13:1E-99.1, Ch. 533.
- "Local Tax Authorization Act," extended, amends C. 40:48C-5 et al., Ch. 496.
- Motor fuel tax violations, certain; crimes of fourth degree, amends R. S. 54:39-55 and 54:39-64, Ch. 340.
- "Motor Fuels Use Tax Act of 1963," sundry amendments, amends C. 54:39A-2 et al., repeals C. 54:39A-7, Ch. 7.
- Public utilities gross receipts, exemption; natural gas sales to cogenerators, certain, amends C. 54:30A-50, Ch. 359.
- Real property; abatements, certain; urban enterprise zones, eligible for, amends C. 40:55C-45 and 40:55C-82, Ch. 435.
- Real property; deduction, senior citizen's-disabled; filing deadlines, certain; extended, amends C. 54:4-8.44a, Ch. 505.
- Real property; deduction, senior citizen's-disabled; 1984 income statement, filing deadline extended, Ch. 265.
- Real property; deductions; veteran's, senior citizen's-disabled; both allowed, amends C. 54:4-8.17 and 54:4-8.41, Ch. 200.
- Real property; exemption; associations for moral, mental improvement; portion used for, amends R. S. 54:4-3.6, Ch. 395.
- Real property; exemption; condominiums, certain, C. 40:55C-58.2, amends C. 40:55C-46.1 et al., Ch. 138.
- Real property; exemption; pet cemeteries, dedicated, certain, C. 54:4-3.138, Ch. 401.
- Real property; refund; exempt charitable, religious associations, corporations, certain, Ch. 36.
- Real property; veterans' deductions, exemptions; extended to surviving spouses, instead of widows, amends R. S. 54:4-3.7 et al., Ch. 515.
- Revaluation, real property; municipalities, certain; implementations, **permissive, temporary, Chs. 152, 511.**
- Sales and use tax, exemption; direct-mail advertising material, certain, C. 54:32B-8.39, Ch. 24.
- Sales and use tax, exemption; equipment, certain; used for cogeneration, amends C. 54:32B-8.13, Ch. 266.
- Sales and use tax, exemption; equipment, certain; used in manufacture of printed material, amends C. 54:32B-8.29, Ch. 440.

TAXATION (Continued)

- Sales and use tax, exemption; services on personal property, out-of-State use: retroactive, Ch. 208.
- Transfer inheritance tax, phase out, C. 54:33-14, amends R. S. 54:34-2, Ch. 57.
- Wine; preferential rate for New Jersey, eliminated, amends R. S. 54:43-1, Ch. 233.

TRADE REGULATION

- Motor vehicles, new, certain; direct sales to consumers, limited to franchisees, C. 56:10-26 et seq., Ch. 361.
- Sunday Closing Law; exemption, certain, Ch. 163.
- Sunday sales referenda, C. 2A:171-5.22 and 2A:171-5.23, amends C. 2A:171-5.10 et al., Ch. 271.
- Sunday sales referenda; municipalities, certain; permitted, C. 2A:171-5.24 and 2A:171-5.25, Ch. 417.

TRANSPORTATION

- Bus operators; regulatory procedures, simplified, amends R. S. 48:3-7 and 48:3-9, Ch. 232.
- Hazardous materials, regulated; C. 39:5B-30 et seq., amends C. 39:5B-28 and 39:5B-29, repeals C. 39:5B-1 et seq., Ch. 415.
- Monorail systems; New Jersey Monorail Legislative Commission, name changed, membership expanded; Department of Transportation, coordination function, C. 27:27-1 et seq.; amends P. L. 1983, Ch. 295; Ch. 538.
- Senior citizens, handicapped; provision of free, low-cost; by municipalities, authorized, C. 40:48-4.10 et seq., Ch. 199.

TRUSTS

- "New Jersey Community Trust for Persons with Severe Chronic Disabilities Act," C. 3B:11-19 et seq., Ch. 424.
- Nontestamentary trustee, included in definition of "fiduciary," amends N. J. S. 3B:18-23, Ch. 434.
- Prepaid funeral expense monies; deposit in pooled trust account, permitted, C. 3B:11-16 et seq., amends C. 2A:102-13, Ch. 147.

UNEMPLOYMENT COMPENSATION

- Agricultural workers; benefit eligibility, criteria, temporary, C. 43:21-11.1, amends R. S. 43:21-4 and 43:21-5, Ch. 508.
- Employer violations; jurisdiction, officers' liability, amends R. S. 43:21-16, Ch. 476.
- Income execution on benefits; for alimony, maintenance, child support payments, amends C. 2A:17-56.8, Chs. 53, 278.
- Shorthand reporters, certified, free-lance, certain; coverage exemption, amends R. S. 43:21-19, Ch. 389.
- Truckers, independent, certain; coverage exemption, amends R. S. 43:21-19, Ch. 378.

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- "New Jersey Urban Development Corporation Act," C. 55:19-1 et seq., Ch. 227.
- Urban enterprise zones; included in "blighted area" definitions, certain, amends C. 40:55C-45 and 40:55C-82, Ch. 435.

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Municipal bonds, Ch. 259.

School district bonds, Chs. 112, 196, 235, 338, 390, 446, 512.

WATER SUPPLY

"New Jersey Wastewater Treatment Privatization Act," C. 58:27-1 et seq., amends C. 40A:11-15, Ch. 72.

"New Jersey Wastewater Treatment Trust Act," C. 58:11B-1 et seq., Ch. 334.

"New Jersey Wastewater Treatment Trust Act," Ch. 334, ss. 6, 11; technical amendments; amends C. 58:11B-6 and 58:11B-11, Ch. 336.

"New Jersey Water Supply Privatization Act," C. 58:26-1 et seq., amends C. 40A:11-15, Ch. 37.

WEAPONS

Alcoholic Beverage Control Enforcement Bureau inspectors, weapon-carrying authorized, amends N. J. S. 2C:39-6, Ch. 76.

Arson investigators, certain; weapon-carrying authorized, amends N. J. S. 2C:39-6, Ch. 150.

Campus police officers; weapon-carrying, certain; authorized, amends N. J. S. 2C:39-6, Ch. 376.

Firearms training course, mandated for certain persons, amends N. J. S. 2C:39-6, Ch. 324.

Special law enforcement officers, certain; weapon-carrying authorized, C. 40A:14-146.8 et seq., amends N. J. S. 2C:39-6, repeals N. J. S. 40A:14-146, Ch. 439.

Special police officers, certain; weapon-carrying, off-duty; training requirements, amends N. J. S. 40A:14-146, Ch. 45.

Stun gun possession, crime of fourth degree, amends N. J. S. 2C:39-1 and 2C:39-3, Ch. 360.

WELFARE

Aid to Families with Dependent Children; personal injury awards, certain; exempt from repayment requirement, amends C. 44:10-4, Ch. 120.

Burial, funeral expenses; aid recipients, certain, C. 44:1-157.1, amends C. 30:4C-32 and R. S. 44:7-13, Ch. 282.

Child support proceedings, interstate; transferred to county welfare agencies, amends C. 2A:4-30.36 et al., Ch. 87.

General public assistance; ineligibility, for failure to perform assigned work, amends C. 44:8-114, Ch. 471.

Personal needs allowances, increase; medical assistance recipients, certain, C. 30:4D-6a, amends C. 44:7-87, Ch. 286.

Personal needs allowances, increase; State assistance recipients, certain, C. 30:4-63.2, Ch. 292.

"Public Assistance Payments Cycling Act," C. 44:10-5.1 et seq., Ch. 501.

WOMEN

Commission on Sex Discrimination in the Statutes, extended; amends P. L. 1978, Ch. 68; Ch. 392.

"Job Training Center for Urban Women Act," C. 52:27D-288 et seq., Ch. 189.

WOMEN (Continued)

- New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; bank loans, assistance packages, certain; permitted, C. 17:9A-24.14, Ch. 385.
- New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; established, C. 34:1B-47 et seq., Ch. 386.
- "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses," amends C. 52:32-17 et al., Ch. 384.
- Set-aside contracts for minority, women's businesses; by casino licensees, mandated, C. 5:12-184 et seq., amends C. 5:12-63, Ch. 539.
- Set-aside programs for small, women's, minority businesses; by boards of education, authorized, C. 18A:18A-51 et seq., amends R. S. 10:2-1 et al., Ch. 490.
- Set-aside programs for small, women's, minority businesses; by counties, municipalities; authorized, C. 40A:11-41 et seq., Ch. 482.
- Sureties; discrimination by, prohibited; minority, women's businesses, C. 17:31-9, Ch. 80.
- "Technical Training for Minorities and Women Act," C. 18A:54D-1 et seq., Ch. 427.

