

ACTS
OF THE
Second Annual Session
OF THE
Two Hundred and Second Legislature
OF THE
STATE OF NEW JERSEY
AND
Thirty-First Under the New Constitution
CHAPTERS 201-460



1987

New Jersey State Library

CHAPTER 201

AN ACT concerning savings banks and other depository institutions, and revising various parts of the statutory law.

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

C. 17:9A-382 Definitions.

1. (New section) As used in sections 1 through 27 of this act:

a. "Beneficial owner":

(1) Includes any person who, directly or indirectly through any contract, arrangement, understanding, relationship or otherwise, has or shares:

(a) Voting power which includes the power to vote, or to direct the voting of shares; or

(b) Investment power which includes the power to dispose, or to direct the disposition of shares;

(2) Includes any person who directly or indirectly creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement or device with the purpose or effect of divesting the person of beneficial ownership of shares or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade this act;

(3) Includes any person who has the right to acquire beneficial ownership of the shares as defined herein within sixty (60) days, including, but not limited to, any right to acquire:

(a) Through the exercise of any option, warrant or right;

(b) Through the conversion of a security;

(c) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(d) Pursuant to the automatic termination of a trust, discretionary account or similar arrangement; except that, any person who acquires a security or power specified in subparagraph (a), (b), or (c) above, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participation in any transaction having such effect or purpose, immediately upon the acquisition shall be deemed to be the beneficial owner of the shares which may be acquired through the exercise or conversion of such

security or power. Any securities not outstanding which are subject to these options, warrants, rights, or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by the person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person;

(4) Does not include:

(a) Any member of a national securities exchange who holds shares directly or indirectly on behalf of another person solely because the member is the record holder of the securities and, pursuant to the rules of the exchange, may direct the vote of the shares without instruction on other than contested matters or matters that may affect substantially the rights or privileges of the holders of these shares to be voted, but is otherwise precluded by the rules of the exchange from voting without instruction; or

(b) Any person who in the ordinary course of business is a pledgee of securities under a written pledge agreement until the pledgee had taken all formal steps necessary which are required to declare a default and determines that the power to vote or direct a vote or to dispose or to direct the disposition of pledged shares will be exercised, provided that (i) the pledge agreement is bona fide and was not entered into with the purpose or the effect of changing or influencing the control of the issuer, or in connection with any transaction having any such purpose or effect including any transaction subject to this act; and (ii) the pledge agreement prior to default does not grant to the pledgee: (A) the power to vote or to direct the vote of the pledged securities; or (B) the power to dispose or to direct the disposition of the pledged securities other than the grant of this power pursuant to a pledged agreement under which credit is extended subject to Regulation T of the Federal Reserve Board, 12 C.F.R. 220, and in which the pledgee is a broker or dealer registered under section 15 of the "Securities Exchange Act of 1934," 48 Stat. 896 (15 U.S.C. §78o); or

(c) Any person engaged in business as an underwriter of securities who acquires shares through participation in good faith in a firm commitment underwriting of shares registered under the "Securities Act of 1933," 48 Stat. 74 (15 U.S.C. §77a et seq.), or under the "Securities Exchange Act of 1934," 48 Stat. 881 (15 U.S.C. §78a et seq.), until the expiration of 40 days after the date of the acquisition.

All securities of the same class beneficially owned by a person, regardless of the forms the beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by the person.

b. "Capital stock savings bank" means any savings bank chartered pursuant to the provisions of P.L. 1982, c. 9 (C. 17:9A-8.1 et seq.).

c. "Commissioner" means the Commissioner of Banking.

d. "Control of a capital stock savings bank" includes:

(1) Owning, beneficially or otherwise, controlling, or having power to vote 5% or more of the outstanding shares of any class of voting securities of a capital stock savings bank, directly or indirectly, or acting through one or more persons;

(2) Controlling in any manner the election of a majority of the directors of a capital stock savings bank;

(3) Exercising or having the power to exercise directly or indirectly a controlling influence over the management or policies of a capital stock savings bank; or

(4) Conditioning in any manner the transfer of 5% or more of any class of voting securities of a capital stock savings bank.

"Control of a capital stock savings bank" does not include a director or officer of a capital stock savings bank acting in the capacity of performing his duties or responsibilities of office.

e. "Converted savings bank" means an organizing mutual savings bank which has converted to a capital stock savings bank pursuant to the provisions of P.L. 1982, c. 9 (C. 17:9A-8.1 et seq.) subsequent to the formation of a mutual savings bank holding company.

f. "Mutual savings bank holding company" means a mutual savings bank holding company which has its principal office of business in this State and which has been formed by an organizing mutual savings bank pursuant to sections 7 through 27 of this act.

g. "Organizing mutual savings bank" means a mutual savings bank which has its principal office of business in this State, the board of managers of which propose to form a mutual savings bank holding company pursuant to the provisions of this act.

h. "Person" means an individual, bank, corporation, savings bank, savings and loan association, partnership, trust, association,

joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any form of entity.

i. "Subsidiary capital stock savings bank" means a capital stock savings bank which has been incorporated by the directors of a mutual savings bank holding company, a majority of the stock of which subsidiary capital stock savings bank is held by a mutual savings bank holding company.

j. "Voting power" means that a person has or shares, directly or indirectly, through any option, contract, arrangement, understanding, conversion right or relationship, or by acting jointly or in concert or otherwise, the power to vote, or to direct the voting of voting shares.

k. "Department" means the Department of Banking.

l. "Capital stock savings bank holding company" means a bank holding company that has issued or intends to issue voting capital stock; and which controls one or more savings banks located in this State or any other state, the aggregate deposits of which controlled savings banks exceed the aggregate deposits of the bank holding company's subsidiaries which are banks, banks incorporated in other states or national banks wherever their principal office is located.

m. "Bank holding company" means a bank holding company subject to the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. §1841 et seq.).

n. "Bank" means a bank as defined in subsection (1) of section 1 of P.L. 1948, c. 67 (C. 17:9A-1), a national banking association having its principal office in this State and a bank holding company.

C. 17:9A-383 Prior approval.

2. (New section) No person shall, without the prior approval of the commissioner, acting directly or indirectly or through or in concert with one or more persons:

a. Obtain or exercise control of a capital stock savings bank;

b. Offer to acquire beneficial ownership or control of any voting shares of a capital stock savings bank if, after the acquisition, the person would beneficially own or control more than 5% of the then-outstanding voting shares of the capital stock savings bank; or

c. Acquire beneficial ownership or control of any voting shares of a capital stock savings bank, if, after the acquisition, the person

would beneficially own or control more than 5% of the then-outstanding voting shares of the capital stock savings bank.

C. 17:9A-384 Application; hearing.

3. (New section) a. An application by a person for the approval of the commissioner to obtain control of a capital stock savings bank, to offer to acquire beneficial ownership or control of more than 5% of the voting shares of a capital stock savings bank, or to acquire beneficial ownership or control of more than 5% of the voting shares of a capital stock savings bank shall be made on a form provided by the commissioner. The commissioner shall give notice to the capital stock savings bank involved in the proposed transaction and shall send a copy of the application to the capital stock savings bank within five business days of receiving the application. The notice shall include the hearing date established pursuant to subsection b. of this section.

No later than 10 days after the date upon which a completed application is filed with the commissioner, the applicant shall cause to be published a notice of application for control of a capital stock savings bank. This publication shall be made in a newspaper of general circulation in the county in which the capital stock savings bank has its principal office. The notice shall include whatever information the commissioner, by regulation, deems to be necessary and appropriate.

b. The commissioner shall hold a hearing on the application within 60 days of receipt of the completed application, and shall notify the applicant as to the date of the hearing at the time the application is filed. The hearing shall be held in accordance with rules and regulations promulgated by the commissioner.

C. 17:9A-385 Factors for consideration.

4. (New section) In determining whether to approve an acquisition of shares or offer to acquire shares pursuant to section 2 of this act, the commissioner shall consider the following factors:

a. With respect to the applicant:

- (1) The financial condition and the resources of the applicant;
- (2) The competence, character, and banking experience of the applicant, including the applicant's record of compliance with laws and regulations;
- (3) Whether the applicant has (i) employed any device, scheme or artifice to defraud; or (ii) obtained or will obtain any money or

property by means of any untrue statement of a material fact or any omission of a material fact; or (iii) engaged in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon the capital stock savings bank, the shareholders of the capital stock savings bank, the depositors thereof, or the public at large; and

(4) The applicant's plans and intentions with respect to the operation of the capital stock savings bank.

b. With respect to the capital stock savings bank:

(1) The financial condition and prospects of the capital stock savings bank, which shall include consideration as to the sufficiency of current or projected capital positions, as well as the level of indebtedness of the capital stock savings bank before and after the acquisition;

(2) The convenience and needs of the depositors and the communities served by the capital stock savings bank; and

(3) The effect of the proposed acquisition on the safety and soundness of the capital stock savings bank.

c. Whether approval of the application would result in a person owning more shares than are permitted by the capital stock savings bank's charter or bylaws, in which case the commissioner shall not approve the application; except that this subsection shall not apply to an application for the acquisition of shares of a capital stock savings bank that the commissioner determines is in an unsafe or unsound condition.

In the event the commissioner grants approval of an acquisition of shares as described in subsection a. of this section, the approval shall apply only to the specific transaction set forth by the applicant in his application, and any subsequent acquisition which would further increase the applicant's beneficial ownership or control of the then-outstanding voting shares of the capital stock savings bank shall require the commissioner's prior approval in the same manner required under this act.

C. 17:9A-386 Voting ineligibility; registration.

5. (New section) a. Any shares in excess of 5% of the outstanding voting shares of a capital stock savings bank which are acquired in violation of sections 2 through 4 of this act shall not be eligible to be voted and shall not be counted in determining the number of

shares outstanding for the purpose of determining the number or percent of shares required for shareholder action.

b. All shares of stock in a capital stock savings bank shall be registered in the name of the true owner of the shares, and if held as nominee or in trust or otherwise for the benefit of any other person, the person listed as registered owner shall disclose to the capital stock savings bank the names and addresses of all persons who hold a beneficial interest in the shares on written demand by the capital stock savings bank.

C. 17:9A-387 Violations; remedies.

6. (New section) a. Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice which constitutes a violation of sections 2 through 5 of this act or any regulations promulgated pursuant thereto, the commissioner may conduct an investigation and issue cease and desist orders if he deems it necessary. In addition to all other remedies, the commissioner may bring an action in the Superior Court, Law Division on behalf of the State against any person or persons participating in or about to participate in a violation. In any court proceeding, the commissioner may apply for and shall be entitled to have issued the court's subpoena requiring the appearance of any defendant and the defendant's employees or agents, and the production of documents, books and records as may be necessary for the hearing of the action. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order the rescission of any sale, tender for sale, purchase or tender for purchase of equity securities determined to be unlawful under sections 2 through 5 of this act.

b. Whenever any person has engaged in or is about to engage in any act or practice which constitutes a violation of sections 2 through 5 of this act or any regulation or order issued thereunder, the capital stock savings bank or any record or beneficial owner of an equity security of the capital stock savings bank may bring an action to enjoin the person from continuing or doing any act in violation of this act. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order the rescission of any sale, tender for sale, purchase or tender for purchase of equity securities determined to be unlawful under this act or under any regulation or order of the commissioner.

c. Any person who knowingly violates any provision of sections 2 through 5 of this act may be imprisoned for a period not to exceed one year, or fined an amount not to exceed \$100,000.00, or both.

d. (1) In addition to any other penalties herein or otherwise provided by law, the commissioner may, upon notice and hearing impose a penalty not exceeding \$10,000.00 for any violation of sections 2 through 5 of this act or of any rule or regulation promulgated thereto. The penalty shall be recovered by and in the name of the commissioner in a civil action by a summary proceeding under "the penalty enforcement law," N.J.S. 2A:58-1 et seq., in the Superior Court, Law Division. Where any violation of sections 2 through 5 of this act or of any regulation hereunder is of a continuing nature, each day during which the violation continues shall constitute an additional, separate and distinct offense, except during the time an appeal from the order or notice may be taken or is pending.

(2) Sections 2 through 6 of this act shall apply to all capital stock savings banks organized pursuant to P.L. 1982, c. 9 (C. 17:9A-8.1 et seq.) whether chartered prior to or after the enactment of this act. Any person who prior to the effective date of this act directly or indirectly, beneficially owned or controlled more than 5% of the outstanding voting shares of a capital stock savings bank may continue such ownership after the effective date of this act without approval of the commissioner. This act shall not be construed to limit the applicability of any law governing the acquisition of securities.

(3) Sections 2 through 6 of this act shall not apply to any merger of a capital stock savings bank with another capital stock savings bank or mutual savings bank. The provisions of P.L. 1982, c. 9 (C. 17:9A-8.1 et seq.) and sections 132 through 148 of P.L. 1948, c. 67 (C. 17:9A-132 to C. 17:9A-148) shall be the exclusive governing provisions.

(4) Notwithstanding any other law of this State, the provisions contained in sections 2 through 6 of this act shall also apply to an acquisition of voting shares of a bank or company which controls a bank by a savings bank or a savings bank holding company if, after the acquisition, the savings bank or savings bank holding company would beneficially own or control more than 5% of the outstanding voting shares of the bank or company which controls a bank. For the purpose of this paragraph (4), "savings bank" means any capital stock savings bank or mutual savings bank chartered under the laws of this State; "savings bank holding company" means any company

located in this State which controls a savings bank and does not also control a bank; and "bank" shall have the same definition as provided in subsection (1) of section 1 of P.L. 1948, c. 67 (C. 17:9A-1) and shall also include a national banking association having its principal office in this State.

C. 17:9A-388 Formation of mutual savings bank holding company.

7. (New section) The board of managers of an organizing mutual savings bank, by two-thirds vote of the board, may apply to the commissioner to form a mutual savings bank holding company which may be formed in accordance with either subsection a., b., or c. of this section.

a. The board of managers of an organizing mutual savings bank may incorporate a mutual savings bank holding company pursuant to the provisions of section 8 of this act, and subsequently:

(1) Convert to a capital stock savings bank pursuant to section 26 of this act; or

(2) If the mutual savings bank holding company has formed a subsidiary capital stock savings bank pursuant to sections 16 through 24 of this act, either (i) merge with the subsidiary capital stock savings bank pursuant to section 25 of this act or (ii) sell or transfer its assets and liabilities to the subsidiary capital stock savings bank and dissolve pursuant to article 32 of P.L. 1948, c. 67 (C. 17:9A-207); or

b. The board of managers of an organizing mutual savings bank may form a mutual savings bank holding company by:

(1) Incorporating a subsidiary capital stock savings bank pursuant to sections 16 through 24 of this act; and

(2) Transferring the substantial part of the organizing mutual savings bank's assets and liabilities, including all of its deposit liabilities, to the subsidiary capital stock savings bank in return for a majority of the capital stock of the subsidiary capital stock savings bank in accordance with section 17 of this act. Capital deposits and surplus in an amount approved by the commissioner may be retained by the organizing mutual savings bank, which shall be deemed a mutual savings bank holding company, if it follows the procedures set forth in section 27 of this act; or

c. The board of managers of an organizing mutual savings bank may form a mutual savings bank holding company by any other method of reorganization approved by the commissioner.

C. 17:9A-389 Certificate of incorporation.

8. (New section) a. The board of managers of the organizing mutual savings bank shall execute a certificate of incorporation for the mutual savings bank holding company stating:

(1) The name by which the mutual savings bank holding company shall be known;

(2) The street, street number, and municipality where the principal office of the mutual savings bank holding company is to be located;

(3) The names and addresses of the trustees of the organizing mutual savings bank;

(4) The number of trustees of the mutual savings bank holding company;

(5) The names of persons who are to act as trustees of the mutual savings bank holding company, until their successors are elected and qualified;

(6) The amount of capital deposits and surplus which are to be transferred from the organizing mutual savings bank to the mutual savings bank holding company; and

(7) Any other provisions as the incorporators of the mutual savings bank holding company deem necessary, or as are required by the commissioner by regulation.

b. The certificate of incorporation of a mutual savings bank holding company shall provide for the retention of any interests of the respective depositors of the organizing mutual savings bank in the assets of the organizing mutual savings bank, according to a fair valuation, including assets which are proposed to be transferred from the organizing mutual savings bank to the mutual savings bank holding company.

c. The certificate of incorporation of the mutual savings bank holding company shall also provide that a liquidation account shall be established, on terms established or approved by the commissioner.

C. 17:9A-390 Approval of charter.

9. (New section) If the commissioner determines that the establishment of a mutual savings bank holding company is in the best interests of the depositors of the organizing mutual savings bank, that the qualifications, experience and character of the proposed officers

and directors of the mutual savings bank holding company are sufficient to result in the successful operation of the mutual savings bank holding company, and that the interests of the public will be served by the establishment of a mutual savings bank holding company, that the mutual savings bank holding company is adequately capitalized, and that the establishment of the mutual savings bank holding company otherwise meets the requirements of law, he may approve the charter.

C. 17:9A-391 General powers.

10. (New section) a. The general powers of the mutual savings bank holding company shall be those powers conferred on corporations pursuant to the provisions of N.J.S. 14A:3-1, N.J.S. 14A:3-2, N.J.S. 14A:3-4, and N.J.S. 14A:3-5. Mutual savings bank holding companies shall be subject to the requirements of chapter 4 of Title 14A of the New Jersey Statutes, article 28 of P.L. 1948, c. 67 (C. 17:9A-188 through C. 17:9A-195), article 29 of P.L. 1948, c. 67 (C. 17:9A-196) and article 30 of P.L. 1948, c. 67 (C. 17:9A-197 and C. 17:9A-198), to the extent that those requirements do not conflict with the provisions of this act.

b. In addition to other activities authorized by law for a mutual savings bank holding company, a mutual savings bank holding company may:

(1) With the prior approval of the commissioner, merge with or into, or consolidate with, another mutual savings bank holding company or capital stock savings bank holding company;

(2) With the prior approval of the commissioner, incorporate a new subsidiary capital stock savings bank pursuant to the provisions of sections 16 through 24 of this act; except that paragraph (4) of subsection (a) of section 17 of this act shall not apply to such subsidiary capital stock savings bank;

(3) With the prior approval of the commissioner, convert itself into a capital stock savings bank holding company, pursuant to applicable provisions of this act;

(4) Issue capital debentures, which shall be legal investments for banks, savings banks, savings and loan associations; and

(5) Exercise such power or engage in such activity authorized for a bank holding company or savings and loan holding company as the commissioner shall by regulation permit.

c. The commissioner may exercise any of the powers vested in him by article 42 of P.L. 1948, c. 67 (C. 17:9A-226 et seq.) with respect to the affairs of the mutual savings bank holding company. The mutual savings bank holding company or capital stock savings bank holding company shall be subject to the requirements of subsection a. of section 2, section 3, and section 5 of P.L. 1986, c. 6. Whenever in said sections the term "bank holding company" is used it shall be deemed to refer also to a mutual savings bank holding company or a capital stock savings bank holding company and the term "bank" shall be deemed to refer also to a savings bank.

d. Notwithstanding the provisions of subsection b. of this section, or the provisions of P.L. 1986, c. 5 (C. 17:9A-370 et seq.), a mutual savings bank holding company or a capital stock savings bank holding company shall not be granted authority to exercise any powers granted to a bank holding company pursuant to P.L. 1986, c. 5.

C. 17:9A-392 Board of directors.

11. (New section) Every mutual savings bank holding company shall be managed by a board of not less than six nor more than 21 directors. Directors shall be elected by a plurality of the members of the board of directors of the mutual savings bank holding company at the annual meeting, for a term of up to three years, as provided in the bylaws. Each director shall serve for the term for which he is elected and until his successor is elected and has qualified. A vacancy on the board of directors may be filled by a plurality of the members of the board of directors for the remainder of the unexpired term. If the board fails to fill the vacancy within one year, the commissioner may do so. Elections of directors shall be certified by the board and shall be filed with the department within 15 days.

The board of directors shall hold an annual meeting within the first four months of each calendar year, and other meetings at such times and so often as they shall deem necessary. The annual meeting shall be held at a location within the State. A majority of a quorum of the board of directors shall be necessary to transact the business of the board.

C. 17:9A-393 Bylaws; executive committee.

12. (New section) a. The board of directors of every mutual savings bank holding company shall have the power to make, amend and repeal bylaws not inconsistent with this act, providing for:

- (1) The management of its property;
- (2) The regulation and government of its affairs;

(3) The terms of office, manner of appointment, and the duties and powers of its officers and committees; and

(4) Such other matters as the board from time to time deems advisable.

b. The bylaws may provide for and the board may elect an executive committee of the board, and other committees as the board may deem advisable. The executive committee may exercise all of the powers of the board, except that the executive committee may not:

(1) Exercise its powers while a quorum of the board is actually convened for the conduct of business;

(2) Declare a dividend or approve any other distribution to the parties in interest;

(3) Make, alter, or repeal the bylaws of the holding company;

(4) Elect or appoint any officer or director; or

(5) Exercise any other power which this act specifically provides shall be exercised by at least a majority of all the directors.

The minutes of each meeting of the executive committee shall be presented to the board of directors at its next meeting following the meeting of the executive committee.

C. 17:9A-394 Election of officers.

13. (New section) At the first meeting of the board of directors of the mutual savings bank holding company following each annual meeting, the board may elect a Chairman of the Board, and shall elect a President, either of whom may be chief executive officer, or another officer whom it may designate to be chief executive officer, all of whom shall be directors, and a Secretary and a Treasurer, neither of whom need be directors. Other officers of the mutual savings bank holding company may be appointed from time to time by the directors, as provided in the bylaws.

Reasonable compensation may be paid to directors of the mutual savings bank holding company for attendance at meetings of the board, or for service upon committees, or for other service rendered, and shall be fixed from time to time by a vote of a majority of the board. The commissioner may direct that the amount of compensation paid to directors of any mutual savings bank holding company be reduced if in his judgment it is excessive.

A mutual savings bank holding company may pay its officers any reasonable compensation as may be from time to time fixed by the board of directors. The commissioner may direct that the amount of compensation be reduced if in his judgment it is excessive.

C. 17:9A-395 Distribution of surplus.

14. (New section) The board of directors of the mutual savings bank holding company may, from time to time, by a majority vote of the directors, divide equitably any surplus which may be in excess of the amount required for the operations of the mutual savings bank holding company or to maintain the safety and soundness of the mutual savings bank holding company, and distribute the same to the respective depositors of its subsidiary capital stock savings bank or banks, in the manner prescribed by this act, and with the approval of the commissioner. The commissioner may, if he deems the surplus held by a mutual savings bank holding company to be excessive, order such a distribution to be made by the directors.

C. 17:9A-396 Retention of interests in assets.

15. (New section) Upon the formation of a mutual savings bank holding company pursuant to the provisions of this act, the depositors of the organizing mutual savings bank shall retain the same interests in the assets of the mutual savings bank holding company as they had in the organizing mutual savings bank and, upon the reorganization of an organizing mutual savings bank into a mutual savings bank holding company and a subsidiary capital stock savings bank pursuant to this act, the depositors of the subsidiary capital stock savings bank shall retain the same interests in the mutual savings bank holding company. Any interests in the assets of the mutual savings bank holding company which are placed in a liquidation account as provided in section 8 of this act shall be for the benefit of the depositors of the organizing mutual savings bank, or the depositors of the subsidiary capital stock savings bank, as the case may be. Upon the merger or consolidation of a mutual savings bank holding company or capital stock savings bank holding company with another mutual savings bank holding company, the merger or consolidation agreement shall provide for the retention of any interests of the respective depositors of the subsidiary capital stock savings bank or banks in the assets of the merged or consolidated mutual savings bank holding companies according to a fair valuation, as approved by the commissioner.

C. 17:9A-397 Incorporation of subsidiary bank.

16. (New section) The directors of a mutual savings bank holding company which has been established pursuant to sections 7 through

15 of this act may apply to the commissioner to incorporate a capital stock savings bank in accordance with this section through section 24 of this act, as a subsidiary of the mutual savings bank holding company. They shall issue a certificate of incorporation stating:

- a. The name by which the subsidiary capital stock savings bank shall be known;
- b. The street, street number and municipality in which the principal office of the subsidiary capital stock savings bank is to be located;
- c. The names and addresses of the directors of the mutual savings bank holding company who will be the incorporators of the subsidiary capital stock savings bank;
- d. The number of directors on the board of directors;
- e. The names of the persons who will serve as directors until their successors are elected and qualified;
- f. The amount of capital stock, the number of shares into which it is divided, and the par value of each share, not less than a majority of the total outstanding shares of which shall be held in the name of the mutual savings bank holding company; and
- g. The amount of surplus with which the subsidiary capital stock savings bank will commence business.

C. 17:9A-398 Submission of certificate of incorporation.

17. (New section) a. The certificate of incorporation of every subsidiary capital stock savings bank established pursuant to this act shall be submitted to the commissioner within 60 days after its execution, together with an affidavit made by each of its incorporators, setting forth:

- (1) That no fee, commission, or other compensation has been paid, directly or indirectly, by the mutual savings bank holding company or by the subsidiary capital stock savings bank in the course of organizing the subsidiary capital stock savings bank, and that no promotion fees or charges have been provided or are contemplated;
- (2) A complete disclosure of all fees paid or agreed to be paid in the matter of chartering and organizing the proposed subsidiary capital stock savings bank;
- (3) That at least a majority of the shares of the authorized stock of the subsidiary capital stock savings bank is held by the mutual savings bank holding company; and

(4) That the subsidiary capital stock savings bank proposes to:

(a) Merge with the organizing mutual savings bank pursuant to section 25 of this act; or

(b) Purchase the assets of the organizing mutual savings bank pursuant to section 25 of this act; or

(c) Receive the assets and liabilities of the organizing mutual savings bank pursuant to paragraph (2) of subsection b. of section 7 of this act.

b. The commissioner may grant a certificate of authority to a subsidiary capital stock savings bank pursuant to the provisions of section 14 of P.L. 1948, c. 67 (C. 17:9A-14).

C. 17:9A-399 Approval of charter.

18. (New section) If the commissioner determines that the qualifications, experience and character of the proposed officers and directors of the subsidiary capital stock savings bank are sufficient to result in the successful operation of the subsidiary capital stock savings bank, and that the interests of the public will be served by the establishment of the subsidiary capital stock savings bank, and that the capital stock of the subsidiary capital stock savings bank is in accordance with the amount required for banks pursuant to section 4 of P.L. 1948, c. 67 (C. 17:9A-4), he may approve the charter.

C. 17:9A-400 Bylaws of subsidiary.

19. (New section) a. The stockholders of a subsidiary capital stock savings bank shall have the power to make, alter, and repeal bylaws. The directors of the mutual savings bank holding company which holds stock in the subsidiary capital stock savings bank shall vote the shares held by the mutual savings bank holding company.

b. If the certificate of incorporation of the subsidiary capital stock savings bank so provides, the directors of the subsidiary capital stock savings bank may have the power to make, alter and repeal bylaws, but any exercise of this power by the board of directors shall be subject to alteration or repeal by the stockholders. The bylaws may contain any provision not inconsistent with law for the regulation of the affairs of the subsidiary capital stock savings bank.

c. If a board of directors is empowered by the bylaws to make, alter, and repeal bylaws it may not, however, exercise this power with respect to bylaws:

(1) Fixing the number of directors of the subsidiary capital stock savings bank or the manner and time of determining this number;

(2) Establishing the requirement for calling a special meeting of the stockholders; or

(3) Setting forth the manner in which the bylaws may be made, altered, or repealed.

C. 17:9A-401 Meetings for actions on bylaws.

20. (New section) Bylaws shall not be made, altered, or repealed by the stockholders of a subsidiary capital stock savings bank, except at an annual or special meeting of the stockholders, and by the affirmative vote of the holders of a majority of the capital stock of the subsidiary capital stock savings bank.

Bylaws shall not be made, altered or repealed by the board of directors of the subsidiary capital stock savings bank except by the affirmative vote of a majority of the whole board at any regular or special meeting of the board, unless at least two days' prior written notice of the intended action shall have been given to the directors. This notice may be waived by a director at or prior to the meeting.

C. 17:9A-402 Amendment of certificate of incorporation.

21. (New section) Whenever the board of directors of a subsidiary capital stock savings bank deems it advisable to amend the certificate of incorporation, it shall adopt a resolution setting forth the proposed amendment, which amendment shall be approved, at a meeting of the stockholders entitled to vote, by at least two-thirds of the capital stock entitled to vote. If the holders of two-thirds of the shares of capital stock entitled to vote approve the amendment, a certificate of this approval shall be attested by two officers of the bank, one of whom shall be the president or vice president, and shall be submitted to the commissioner for approval. If the commissioner finds that the amendment is for a purpose authorized by law, and that all requirements of law have been met regarding an amendment to a certificate of incorporation, he shall endorse his approval upon the certificate of amendment, and shall file it with the department, and the certificate of incorporation shall thereupon be deemed to be amended.

C. 17:9A-403 Governance of operations.

22. (New section) The annual meetings, voting rights of stockholders, liability of stockholders and the maintenance of a subsidiary capital stock savings bank's books and records shall be governed by the provisions of article 17 of P.L. 1948, c. 67 (C. 17:9A-79 through C. 17:9A-100).

C. 17:9A-404 Declaration of dividends.

23. (New section) A subsidiary capital stock savings bank may declare dividends on its capital stock pursuant to the provisions of section 52 of P.L. 1948, c. 67 (C. 17:9A-52).

C. 17:9A-405 Other powers, rights, privileges.

24. (New section) a. All other powers, rights, and privileges of a converted savings bank or a subsidiary capital stock savings bank not expressly provided for in this act shall be governed by the laws of this State relating to savings banks, including the laws relating to capital stock savings banks, but in any case where any power of investment of a mutual savings bank is limited to a percentage of its capital deposits or surplus, any limitation upon a subsidiary capital stock savings bank shall be expressed in terms of total capital funds, as defined by the commissioner by regulations.

b. A subsidiary capital stock savings bank or a converted savings bank may merge with a mutual savings bank or with a capital stock savings bank pursuant to the provisions of Article 21 of P.L. 1948, c. 67 (C. 17:9A-132 et seq.). In the event of the merger of a subsidiary capital stock savings bank or converted savings bank with another savings bank, in which the resulting savings bank shall be a subsidiary capital stock savings bank or capital stock savings bank held by a mutual savings bank holding company, the plan of merger or consolidation shall provide for the retention of any interests of the depositors of the merging or consolidating savings bank in the assets of the resulting savings bank's parent mutual savings bank holding company according to a fair valuation.

C. 17:9A-406 Merger; consolidation.

25. (New section) a. A subsidiary capital stock savings bank may, pursuant to a plan of merger approved by the commissioner, merge with the organizing mutual savings bank or, pursuant to a plan of consolidation approved by the commissioner, purchase or retain the assets and assume the liabilities of the organizing mutual savings bank, whereupon the organizing mutual savings bank shall dissolve pursuant to the provisions of article 32 of P.L. 1948, c. 67 (C. 17:9A-207).

b. Upon the merger of the organizing mutual savings bank with the subsidiary capital stock savings bank or the purchase and assumption of the liabilities of the organizing mutual savings bank:

(1) The corporate existence of the organizing mutual savings bank shall be merged with that of the subsidiary capital stock savings

bank, and the property and rights of the organizing mutual savings bank shall vest in the subsidiary capital stock savings bank without further word or deed;

(2) The subsidiary capital stock savings bank may, upon complying with the minimum surplus requirements established by law or regulation, establish and maintain its principal office and branch offices at the locations specified in the plan of merger or consolidation;

(3) The rights and obligations of the organizing mutual savings bank shall become the rights and obligations of the subsidiary capital stock savings bank; and

(4) Any pending action by or against an organizing mutual savings bank or a subsidiary capital stock savings bank shall survive the merger or consolidation and the subsidiary capital stock savings bank shall be substituted as a party for the organizing mutual savings bank.

c. The plan of merger or consolidation may contain a provision for the adjustment of the interest of the depositors pursuant to section 201 of P.L. 1948, c. 67 (C. 17:9A-201).

d. The plan of merger or consolidation shall provide that each depositor in the organizing mutual savings bank shall receive an equivalent account in the subsidiary capital stock savings bank.

C. 17:9A-407 Conversion to capital stock savings bank.

26. (New section) As an alternative to the formation of a subsidiary capital stock savings bank pursuant to the provisions of sections 16 through 24 of this act, an organizing mutual savings bank which has established a mutual savings bank holding company pursuant to sections 7 through 15 of this act may, in accordance with a plan approved by the commissioner, convert to a capital stock savings bank pursuant to the provisions of P.L. 1982, c. 9 (C. 17:9A-8.1 et seq.), except that:

a. Not less than a majority of the shares of the converted savings bank shall be held in the name of the mutual savings bank holding company; and

b. The requirement of subsection g. of section 14 of P.L. 1982, c. 9 (C. 17:9A-8.14g.) that a liquidation account be established shall not apply.

C. 17:9A-408 Amended certificate of incorporation.

27. (New section) In the event that the board of managers elects to follow the procedures provided in subsection b. of section 7 of this act, the managers shall, with the approval of the commissioner:

a. Adopt an amended certificate of incorporation which changes the name of the organizing mutual savings bank and conforms its organization, governance and powers to those prescribed for a mutual savings bank holding company by section 8 and sections 10 through 15 of this act.

b. The amended certificate of incorporation adopted pursuant to subsection a. of this section shall state:

(1) The amount of capital deposits and surplus which are to be retained by the organizing mutual savings bank holding company;

(2) The amount of assets and liabilities of the organizing mutual savings bank that are to be transferred to the subsidiary capital stock savings bank; and

(3) A means of retaining any interests of the respective depositors of the organizing mutual savings bank in the assets of the organizing mutual savings bank, according to a fair valuation, including assets which are proposed to be retained by the organizing mutual savings bank holding company.

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

C. 17:9A-7 Incorporation of savings bank.

7. Nine or more persons, of full age, may incorporate a savings bank on the terms and provisions prescribed by this act. Such persons shall execute and acknowledge a certificate of incorporation stating:

(1) the name by which the savings bank shall be known;

(2) the street, street number, if any, and municipality in which the principal office of the savings bank is to be located;

(3) the amount of the capital deposits with which the savings bank will commence business;

(4) the names and addresses of the incorporators;

(5) the number of managers, or that the number of managers shall be not less than a stated minimum or more than a stated maximum;

(6) the names of the persons who will serve as managers until their successors are elected and qualify;

(7) such fiduciary powers, if any, as the savings bank shall be authorized to exercise; and

(8) such other provisions, not inconsistent with this act, as the incorporators may choose to insert for the regulation of the business and affairs of the savings bank.

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

C. 17:9A-8 Capital deposits; payment.

8. Capital deposits; payment.

A. The capital deposits in every savings bank hereafter organized shall amount to not less than:

(1) \$100,000.00, if the population of the municipality wherein the principal office of the savings bank is to be located does not exceed 10,000;

(2) \$150,000.00, if such population exceeds 10,000 but does not exceed 50,000;

(3) \$200,000.00, if such population exceeds 50,000 but does not exceed 100,000;

(4) \$300,000.00, if such population exceeds 100,000 but does not exceed 200,000;

(5) \$500,000.00, if such population exceeds 200,000; provided, that if the certificate of incorporation states that the savings bank shall be authorized to exercise any of the powers specified in section 28, its capital deposits shall not be less than \$500,000.00.

B. The savings bank shall be liable to the depositors or their legal representatives or assigns for the amount of the capital deposits respectively paid in by them, which shall be repaid to them subject to such regulations as are applicable to other deposits and which shall be entitled to interest and dividends at the same rate and under the same regulations as are applicable to other deposits; provided, that, until such time as the surplus of the savings bank shall amount to not less than the original capital deposits, or 5% of other regular deposits, whichever is greater, no part of the capital deposits, other than interest or dividends thereon, may be withdrawn, and until such time, the capital deposits shall be subordinate to all other deposits

and liabilities of the savings bank. When the surplus shall equal the amount in this subsection specified, the capital deposits may be withdrawn or transferred to regular deposits accounts in such amounts from time to time as shall not reduce the surplus below the amount so specified.

30. Section 28 of P.L. 1948, c. 67 (C. 17:9A-28) is amended to read as follows:

C. 17:9A-28 Agency and fiduciary powers.

28. Agency and fiduciary powers. A bank which is a qualified bank shall have the following agency and fiduciary powers in addition to the powers specified in sections 24 and 25, whether or not such agency and fiduciary powers are specifically set forth in its certificate of incorporation, and a savings bank which is a qualified bank shall have the following agency and fiduciary powers, in addition to the powers specified in sections 24 and 26, whether or not such agency and fiduciary powers are specifically set forth in its certificate of incorporation:

- (1) to act as custodian or escrow agent of personal property for any person or corporation;
- (2) as agent, to receive, hold, manage and dispose of by sale or otherwise personal and real property; to act as agent of any person or corporation for any other purpose not prohibited by law;
- (3) to act as the transfer agent or registrar, or both, of any state, county, municipality, board, commission, or other body politic, or of any foreign or domestic corporation and, in such capacity to transfer, register, and countersign stock certificates and bonds or other evidences of indebtedness;
- (4) to act as trustee of or with respect to any security or instruments of indebtedness or of security issued by any state, county, municipality, other body politic, or corporation, foreign or domestic, and to accept any other public or corporate trust not inconsistent with the laws of this State;
- (5) to be appointed and to act under the order of appointment of any court of competent jurisdiction as guardian, custodian, trustee or administrator, or by whatever other title it may thereby be designated, or the person or estate, or both, of any person for whom or for whose estate such an appointment may be made;
- (6) to be appointed and to act as executor, trustee, or guardian under any last will and testament, or as administrator with the will

annexed, or as substituted administrator with the will annexed, or as administrator, or as substituted trustee or as substituted administrator of the estate of any deceased person;

(7) to be appointed and to act as assignee or trustee for the benefit of creditors under any statute providing for such assignment or otherwise;

(8) to be appointed and to act as receiver or trustee on appointment by any state or federal court of competent jurisdiction;

(9) to receive from any person and hold in trust and dispose of, by sale or otherwise, personal and real property, upon such terms as may be specified;

(10) to accept, administer, and execute all other trusts and to act in all other fiduciary capacities not herein specifically enumerated, not inconsistent with law;

(11) all fiduciary powers permitted to associations pursuant to subsection (19) of section 48 of the "Savings and Loan Act (1963)," P.L. 1963, c. 144 (C. 17:12B-48).

31. Section 181 of P.L. 1948, c. 67 (C. 17:9A-181) is amended to read as follows:

C. 17:9A-181 Mortgage loans.

181. Mortgage loans.

A. 1. A savings bank may make or invest in mortgage loans in the manner and subject to the limitations prescribed by this section. For the purposes of this section, "mortgage loan" shall include every indebtedness secured by mortgage on real property, or on a lease of the fee of real property (in any case in which such lease is lawful security for such mortgage loan), except as otherwise provided by subsection Q. of this section, and a savings bank shall be deemed to have made a mortgage loan when

(a) It lends or participates in lending money to a borrower upon the security of real property; or

(b) It acquires, by purchase or otherwise, a mortgage loan or any share or part of or interest in a mortgage loan which is not subordinate to any share or part thereof or interest therein held by any other person.

A savings bank may sell, assign or otherwise dispose of a share or part of or interest in a mortgage loan held by it to any other person.

2. For all purposes of compliance with the applicable provisions and restrictions of subsections D. and G. of this section as to the percentage of the mortgage loan to the appraised value of the mortgaged property, and the term of and rate of amortization of such loan, the date of the acquisition by a savings bank of a mortgage loan or a share or part thereof or interest therein shall, as respects such savings bank, be deemed to be the date as of which the mortgage loan was made and the unpaid amount of the principal then due shall be deemed to be the amount of such mortgage loan.

B. No savings bank shall make a mortgage loan at any time when the total cost of acquisition by the savings bank of all real property owned by it, other than real property held for the purposes specified in subparagraph (a) of paragraph (5) of section 24, and the total of all principal balances owing to the savings bank on mortgage loans, less all write-offs and reserves with respect to such real property and mortgage loans, together exceeds, or by the making of such loan will exceed, 80% of its deposits. For the purposes of this subsection, principal balances owing on mortgage loans made pursuant to subsection Q.(1) of this section shall, only to the extent of the unguaranteed portion of such balances, and loans made pursuant to subsection Q.(2) of this section shall, only to the extent of 50% of such balances, be included in the total of all principal balances owing to the savings bank on mortgage loans; and for the purposes of this subsection, principal balances owing on mortgage loans made by the use of funds received by the bank pursuant to the provisions of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L. 1983, c. 530 (C. 55:14K-1 et seq.), shall, only to the extent of 50% of such balances, be included in the total of all principal balances, owing to the savings bank on mortgage loans.

C. In the event that the real property offered as security for a mortgage loan is subject to one or more prior mortgage liens, the maximum amount of a mortgage loan which may be made pursuant to this section shall be reduced by the total amount of the mortgage loan or loans outstanding which are secured by the prior mortgage lien or liens, except that, if any prior mortgage lien or liens secure a line, or lines, of credit, the maximum amount of mortgage loan which may be made pursuant to this section shall be reduced by the total amount that may be borrowed under the line, or lines, of credit.

D. When the real property offered as security for a mortgage loan consists of a lot of land, or, in the case of condominiums, an interest in a lot of land, upon which there is one or more one-, two-,

three-, or four-family dwellings including appropriate garages or other outbuildings, if any, or upon which such dwelling or dwellings, garages or outbuildings are in the course of construction or are to be constructed, the amount of the mortgage loan shall not exceed 90% of the appraised value of the real property; provided, however, where mortgage guaranty insurance is issued incident to such loan pursuant to the provisions of the Mortgage Guaranty Insurance Act, P.L. 1968, c. 248 (C. 17:46A-1 et seq.), the amount of the mortgage loan shall not exceed 95% of the appraised value of the real property.

E. (Deleted by amendment.)

F. (Deleted by amendment.)

G. When the real property offered as security for a mortgage loan consists of a lot of land upon which there is a building or buildings other than dwellings of the nature described in subsection D. of this section, or upon which such other buildings are in the course of construction, or are to be constructed, or when such land is paved for parking lot purposes, the amount of the mortgage loan shall not exceed 80% of appraised value of such real property. The instrument evidencing a mortgage loan made pursuant to this subsection shall require that the loan be repaid in full in not more than 30 years and one month from the date it is made; and (a) if the amount of such loan, when made, exceeds 50% of the appraised value of the real property, that payment shall be made in reduction thereof at least semiannually, at an annual rate equal to at least 1% of the original amount of such loan; or (b) if the amount of such loan, when made, does not exceed 50% of the appraised value of the real property, that payments shall be made in reduction thereof at least semiannually, at an annual rate equal to at least 1/2% of the original amount of such loan; 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 30 years and one month from its date. When, however, the amount of such loan does not, when made, exceed 50% of the appraised value of such real property, and the instrument evidencing such loan requires that it be paid in full in not more than five years and one month from the date it is made, the instrument need not require that any payment be made in reduction of such loan prior to its maturity date. Notwithstanding the limitations prescribed by subsection D. and hereinabove in this section, a savings bank may make a mortgage loan secured by a lot of land or two or more lots

of land, contiguous or not, upon each of which there is a building or buildings, or upon each of which a building or buildings are in the course of construction or are to be constructed. The limitations of this section governing the term of the loan, rate of amortization, and the percentage of the mortgage loan to the appraised value of each type of building, including land, shall apply. No loans shall be made under subsection D. or G. hereof to any one person or on any one property if the loans shall exceed 15% of the surplus, undivided profits, and reserves of the savings bank, or \$50,000.00, whichever is greater.

H. When the real property offered as security for a mortgage loan is of the nature described in subsection D. of this section, and the amount of the loan does not exceed 66-2/3% of the appraised value of such real property, the instrument evidencing such loan shall be sufficient if it conforms to the requirements of subsection G. of this section.

I. A mortgage loan may be made for the purpose of enabling a borrower to construct a building or buildings upon real property owned by him, and, in such a case, the appraised value of the real property shall include the value of the building or buildings to be constructed, but at no time shall a greater sum be advanced on account of such loan than, in the opinion of (1) the appraisers hereinafter provided for, or (2) one of such appraisers and an officer of the savings bank designated for that purpose by the board of managers, is warranted by the state of completion of the buildings in process of construction. For the purposes of compliance with the applicable requirements of subsection G. of this section as to the term of and the rate of amortization of a loan made pursuant to this section, such loan shall be deemed to have been made when the final advance shall be made to the borrower on such loan, or 60 months from the date of the mortgage securing such loan, whichever is earlier.

J. When the real property offered as security for a mortgage loan consists of unimproved land, and the proceeds of the mortgage loan are not to be used to construct a building on the land, the amount of the loan shall not exceed 50% of the appraised value of the real property. When the real property offered as security for a mortgage loan consists of unimproved land, and the proceeds of the loan are to be used for improvements to the land, the amount of such loan shall not exceed 75% of the appraised value of such real property. The instrument evidencing a loan made pursuant to this subsection shall require that such loan be paid in full in not more than 10 years

and one month from the date it is made. No loan made pursuant to this subsection shall exceed \$10,000.00, or 3/10 of 1% of the deposits of the savings bank, whichever is greater; nor shall any loan be made at any time when the total of all such loans exceeds, or if the making of such loan would cause such total to exceed 2% of the deposits of the savings bank.

K. No mortgage loan shall be made except upon a written certification signed by at least two persons, each of whom shall be either a manager of the bank or an appraiser appointed by its board of managers. In the case of a mortgage loan secured by a mortgage upon real property, such certification shall state the opinion of such persons as to the value of the land and the improvements thereon or to be erected thereon and the character of such improvements. In the case of a mortgage loan secured by a mortgage upon a lease of the fee of real property, such certification shall state the opinion of such person as to the value of the leasehold interest to be subject to the mortgage, including the leasehold interest in the improvements erected or to be erected upon the leased property and the character of such improvements. Such certification shall be filed with the records of the bank, and shall be preserved until the savings bank has no interest, as mortgagee or otherwise, in the real property.

L. Purchase money mortgage loans made by a savings bank on the sale of real property owned by it shall not be subject to the preceding subsections or to subsection P. of this section, except that such loans shall be included in determining whether the total amount of mortgage loans held by a savings bank exceeds 80% of its deposits.

M. No savings bank shall make a mortgage loan secured by a mortgage upon a lease of the fee of real property unless

(1) The leased property is located within this State or, if outside this State, the leased property is located within 50 miles of the border of this State;

(2) The leased 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 lease of the fee of real property, which fee is not subject to any prior lien; the fee shall be deemed not subject to any prior lien notwithstanding the existence of liens of taxes which are not delinquent, building restrictions or other restrictive covenants or con-

ditions, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments, which the persons signing the certificate provided for in subsection K. of this section 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) Such loan shall not exceed 66-2/3% of the appraised value of the leasehold interest subject to the mortgage, including the leasehold interest in the improvements erected upon the mortgaged property, or to be erected thereon wholly or partly with the proceeds of the mortgage loan; and

(5) The instrument evidencing the loan shall require that payment be made on account of the principal amount of such loan at an annual rate sufficient to repay such loan not later than one year prior to the expiration of the lease;

(6) Notwithstanding the foregoing, the terms of the loan are authorized for an association pursuant to subsections C. and D. of section 155 of the "Savings and Loan Act (1963)," P.L. 1963, c. 144 (C. 17:12B-155).

N. The instrument evidencing a mortgage loan may be in such form, and may contain such provisions, not inconsistent with law, as the savings bank may choose to insert for the protection of its lien and the preservation of its interest in the real property mortgaged to it.

O. Notwithstanding the limitations prescribed by the preceding subsections or by subsection P. of this section, a savings bank may

(1) For the purposes of preventing or mitigating loss, or of preserving the lien of its mortgage, or of conserving the value of the real property affected by its mortgage, (a) extend the time for the payment of principal or interest, (b) modify or waive any of the terms or conditions of the instrument evidencing a mortgage loan, (c) settle or compromise all or part of the amount due or to grow due on a mortgage loan, (d) sell or assign the mortgage loan, or a share or part thereof or interest therein, for such consideration as it shall deem proper, and (e) advance funds for the payment of any tax, lien, charge or claim whatsoever; and

(2) Make a loan in addition to an existing mortgage loan or loans held by it, upon the security of the same real property and secured by the existing mortgage or mortgages, in an amount not to exceed the difference between the balance due on the existing mortgage or mortgages and the original amount thereof; provided, however, that no such additional loan shall be made which shall increase the total amount due upon such mortgages over the amount which could be loaned upon the security of such real property. Such additional loan shall be repaid in equal monthly installments, beginning within one year from the date of such loan, with the payments adjusted so that the additional loan shall be repaid in full either before or at the maturity of the existing mortgage. If the unexpired term of such mortgage or mortgages shall have been reduced to 15 years or less, such term may be extended for an additional period of not more than 15 years. Adjustment of payments and extension of mortgage terms pursuant to this section shall comply with the provisions of subsection G. or H. of this section. If so provided in the original mortgage or a supplement or amendment thereto, persons who acquire any rights in or liens upon the mortgaged real property subsequent to the recording of the original mortgage or such supplement or amendment, as the case may be, shall hold such rights and liens subject to the prior lien of the original mortgage and such supplement or amendment, if any, as security for such additional loan; and in such case, no title certificate or insurance under subsection C. of this section shall be required with respect to such additional loan.

P. Except as otherwise provided by this section, no savings bank shall make a mortgage loan if the making of such loan would cause the total of all unpaid balances of such loans held by the savings bank upon the security of the same real property or leasehold, to exceed the limitations imposed by this section upon the amount of a mortgage loan which may be made upon the security of such real property or such leasehold.

Q. A savings bank may invest in

(1)(a) Veterans' loans, wherever located, made pursuant to Title III of the Act of Congress of June 22, 1944, known as the "Servicemen's Readjustment Act of 1944," as amended, supplemented, revised, or recodified from time to time, which the Administrator of Veterans' Affairs or other officer or agency which succeeds to his powers and functions under said act has insured or guaranteed or has made a commitment to insure or guarantee, to the extent and

by such savings bank such corporation as disclosed by its published annual fiscal statements shall have had an average annual net income plus its average annual fixed charges (as herein used, fixed charges shall mean interest on funded or unfunded debt, contingent interest charges, amortization of debt discount and expense and rentals for leased property and, in the case of consolidated earnings statements of parent and subsidiary corporations (which must be used if available) shall include all such fixed charges and the preferred dividend requirement, if any, of such subsidiaries) at least equal to 1-1/2 times the sum of its average annual dividend requirement for preferred stock and its average annual fixed charges for the same period; and

(b) during neither of the last two years of such period shall the sum of its annual net income and its annual fixed charges have been less than 1-1/2 times the sum of its dividend requirement for preferred stock and its fixed charges for the same period; and

(c) such corporation shall have no arrears of dividends on its preferred stock; and

(d) as to the common stock of any corporation that

i. such common stock is registered on a national securities exchange as provided in an Act of Congress of the United States entitled "Securities Exchange Act of 1934," 48 Stat. 881 (15 U.S.C. §78a et seq.), as amended or for which quotations are available through the National Association of Securities Dealers Automated Quotation System (NASDAQ); and

ii. such corporation shall have paid a cash dividend on its common stock in each year of the 10-year period next preceding the date of investment by such savings bank and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period shall have been at least equal to the amount of such dividends paid;

(e) in applying the earnings test under this act to any issuing, assuming or guaranteeing corporation, where such corporation shall have acquired its property or any substantial part thereof within such five-year period immediately preceding the date of investment by consolidation or merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or shall have acquired the assets of any unincorporated business enterprise by purchase or otherwise, net income, fixed charges and

preferred dividends of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this act have been complied with;

(2) stock or shares of a corporation which is an investment company as defined by, and which is registered under, an Act of Congress entitled "Investment Company Act of 1940," 54 Stat. 847 (15 U.S.C. §80a-1 et seq.), as amended; provided

(a) all the stock and shares of such investment company are or are to be owned by savings banks of this State; and

(b) such company may invest only in such investments as are eligible for savings banks of this State including investments made eligible for savings banks by this act; and

(c) the amount of stock of any corporation which may be held by such investment company shall not exceed at the time of investment by such company, 5% of the number of shares of stock of such corporation then outstanding or 3% of the assets of such investment company, whichever amount is the lesser;

(3) common stock of a national banking association or trust company doing business anywhere within the United States which is a member of the Federal Reserve System and which, at the date of its last published statement preceding the date of investment, had a combined total of capital stock, surplus, reserve for contingencies and undivided profits equal to at least \$40,000,000.00 and also equal to at least 6% of its aggregate deposit liability and which, in each of the five fiscal years preceding the date of investment, paid dividends in cash of not less than 4% on its common stock without having reduced the aggregate par value thereof within such five-year period;

(4) common stock of an insurance company, authorized to transact business in New Jersey, which has combined capital stock, surplus and special surplus funds (based on consolidated statements of parent and subsidiary companies, if any) at least equal to \$20,000,000.00 and which has paid cash dividends on its common stock in each of its five fiscal years next preceding the date of investment.

Repealer.

33. Section 7 of P.L. 1968, c. 415 (C. 17:9A-26.1) is repealed.

34. Section 26 of P.L. 1948, c. 67 (C. 17:9A-26) is amended to read as follows:

C. 17:9A-26 Additional powers of savings banks.

26. Additional powers of saving banks.

In addition to the powers specified in section 24, every 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 receive money on deposit, to be repaid, upon such terms, not inconsistent with this act, as may be agreed upon between the depositor and the savings bank, according to the usual custom of savings banks;

(2) To give security for deposits when required by the law of this State or of the United States, or by the rules or orders of any court of this State, or of the United States, or by regulations of any officer or agency of this State or of the United States made pursuant to such law; provided, that, no savings 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;

(3) To invest its deposits and its surplus in the manner provided by this act, or otherwise by law provided;

(4) To be a member of the Federal home loan bank organized in the district in which the savings bank is located, and to subscribe for, purchase, hold, and surrender from time to time such amounts of the stock of such Federal home loan bank as may be required or as may be deemed advisable by such savings bank; to have and exercise all powers, privileges and options which are by law conferred 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 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;

(5) To avail itself of the provisions of any Federal legislation providing for the extension of any lawful banking activity provided in such legislation and made available for participation by savings

banks; except that the power by this paragraph conferred shall not be exercised unless the commissioner shall make a general order authorizing such participation by savings banks upon such terms and conditions as may in such order be prescribed;

(6) Upon application to and approval by the commissioner, to act as custodian or trustee within the contemplation of the Federal Self-Employed Individuals Tax Retirement Act of 1962, as amended and supplemented, and as custodian, trustee or manager of any such investment fund the authorized investments of which include, but need not be limited to savings accounts or real estate loans, and the beneficial interests in which may be represented by transferable shares or certificates. Savings banks exercising the powers authorized by this subsection shall segregate all funds held in such fiduciary capacities from the general assets of the savings bank and shall keep a separate set of books and records showing in detail all transactions made under authority of this subsection. If individual records are kept for each self-employed individual's retirement plan and each such investment fund, then all such funds held in such fiduciary capacities by a savings bank may be commingled for appropriate purposes of investment. No funds held in such fiduciary capacities shall be used by a savings bank in the conduct of its business; however, such funds may be invested in savings accounts of the savings bank in the event that the custodial, trust or other plan does not prohibit such investment. In granting or refusing the savings bank's application the commissioner shall take into consideration the investment policies, amount, type and adequacy of reserves, fidelity bonds and any legally required deposits of the applicant; and other pertinent facts and circumstances. Application to and approval by the commissioner for authority to exercise the powers provided in this subsection shall not be required as to a savings bank authorized to exercise agency or fiduciary powers as a qualified bank; and

(7) To make commercial loans to the same extent as a bank may make commercial loans, subject to all limitations imposed upon banks with respect to such liabilities by Article 13 of P.L. 1948, c. 67 (C. 17:9A-60 et seq.), except that the aggregate of all commercial loans outstanding may not exceed 10% of a savings bank's total assets without the commissioner's approval. The commissioner, upon application of a savings bank and approval thereof by the commissioner, may authorize a savings bank to make and have outstanding commercial loans in an unlimited amount, or in a limited amount, but in excess of 10% the savings bank's total assets. The commissioner

shall issue regulations providing procedures for filing an application for the commissioner's approval and defining terms such as "total assets" and "commercial loans." The commissioner shall, within 30 days of receipt of a completed application, approve the application if he finds that the savings bank is being operated in a safe and sound manner, and: (a) has capital equal to that required from time to time by the Board of Governors of the Federal Reserve System for a bank chartered under the laws of a state of the United States which is a member of the Federal Reserve System and said capital shall be calculated in accordance with generally accepted accounting principles as applied to banks; (b) is competently managed; and (c) demonstrates satisfactory experience and sufficient expertise in making commercial loans. This power to make commercial loans shall apply only to savings banks and no other person or institution shall exercise any power under this subsection by virtue of any parity law or law authorizing such person or institution to make or invest in investments authorized by savings banks.

Repealer.

35. Section 1 of P.L. 1975, c. 48 (C. 17:9A-53.1) is repealed.

36. The commissioner shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), as may be necessary to effectuate the purposes of this act. The commissioner shall publish the rules and regulations referred to in this act within 60 days of the effective date of this act.

37. This act shall take effect immediately, but the sections which refer to regulations shall not become operative until regulations relevant to those sections are adopted.

Approved July 22, 1987.

CHAPTER 202

AN ACT concerning contracts for public buildings and supplementing Title 52 of the Revised Statutes.

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

C. 52:32-2.1 Public building construction projects.

1. The Legislature finds that there are projects for the construction, renovation or restoration of public buildings a. that require a

unique application of specialized planning, management and operational strategies, skills and techniques, and b. where the public exigency requires that they be completed in the most efficient and timely manner.

C. 52:32-2.2 State House, Annex, ancillary structures.

2. a. The Legislature further finds that there are projects for the construction, renovation or restoration of public buildings that must employ construction management personnel, engineers, architects and contractors whose skills and expertise will identify, display and protect the historical, architectural, cultural and artistic significance of those public buildings; and that buildings of this nature have the highest priority in being constructed, renovated and restored in the most timely manner and with the highest managerial, professional and technical expertise when they house the seat of the State Government and are to provide for its continuous operation and when these buildings are some of the most architecturally or historically significant of the State's structures. The Legislature declares that the State House, the State House Annex and ancillary structures are the buildings or constitute the project which are subject to the provisions of subsection b. of this section.

b. Notwithstanding the provisions of R.S. 52:32-2 and section 11 of P.L. 1981, c. 120 (C. 52:18A-78.11) to the contrary, in the case of the erection, construction, alteration or repair of the State House, State House Annex and ancillary structures, as public buildings or a project of the New Jersey Building Authority, if the board, body or person authorized by law to award contracts for the work on the public building, or the authority for the work on the project, finds that such a building or project:

(1) requires a unique application of specialized planning, management and operational strategies, skills and techniques;

(2) requires that construction management personnel, engineers, architects and contractors whose skills and expertise will best identify, display and protect the historical, architectural, cultural and artistic significance of the building or project be employed for its planning, design and construction, renovation or restoration; and

(3) must be completed in the most efficient and timely manner, then the board, body or person authorized by law to award the contracts, or the authority, may (a) by advertising and receiving bids in the form of a single contract, multiple branch contracts, or both, award the contract to the lowest responsible bidder or bidders, as

determined by the board, body, person, or authority; or (b) in order to further the purposes of this section, by inviting bids for the single contract, multiple branch contracts, or both, from among a list of qualified bidders, in a manner that will promote full and free competition whenever practicable, award the contract or contracts to that responsible bidder from among the invited bidders whose bid, conforming to the invitation for bids, will be most advantageous to the State, price and other factors considered.

C. 52:32-2.3 Correctional facilities.

3. a. The Legislature further finds that the "Correctional Facilities Construction Bond Act of 1987" provides for projects for the construction of correctional facilities that are required because of a critical public need or legal constraint, with respect to which there are similar needs to employ construction management personnel, engineers, architects and contractors of special skills and expertise; and that these projects will provide for buildings for the immediate housing or care of their residents or inmates.

b. Notwithstanding the provisions of R.S. 52:32-2 and section 11 of P.L. 1981, c. 120 (C. 52:18A-78.11) to the contrary, in the case of the erection or construction of a public building or project of the New Jersey Building Authority, if the board, body or person authorized by law to award contracts for the work on the public building, or the authority for the work on the project, finds that such building or project:

(1) requires a unique application of specialized planning, management and operational strategies, skills and techniques; and

(2) requires that construction management personnel, engineers, architects and contractors whose skills and expertise will ensure the completion of the building or project in the most efficient and timely manner be employed for its planning, design and construction;

then the board, body or person authorized by law to award the contracts, or the authority, may, by advertising and receiving bids in the form of a single contract, multiple branch contracts, or both, award the contract to the lowest responsible bidder or bidders, as determined by the board, body, person, or authority. There shall be set forth in the bid the name or names of, and evidence of performance security from, all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical

work, structural steel and ornamental iron work, each of which sub-contractors shall be qualified in accordance with Title 52 of the Revised Statutes.

4. This act shall take effect immediately.

Approved July 22, 1987.

CHAPTER 203

AN ACT concerning certain projects of the New Jersey Building Authority, supplementing P.L. 1981, c. 120 (C. 52:18A-78.1 et seq.) and making an appropriation.

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

C. 52:18A-78.11d Supervision by chairman.

1. Notwithstanding any provision of section 11 or any other provision of the act to which this act is a supplement to the contrary, the authority may delegate, by resolution, the supervision of the construction, reconstruction, rehabilitation or improvement of any project to the chairman of the authority.

C. 52:18A-78.11e Employees; assistance.

2. With respect to such a project, the chairman may employ such employees, advisors, consultants or agents and call upon the technical and administrative assistance of other State agencies to the extent and in the manner provided to the authority by the act to which this act is a supplement.

C. 52:18A-78.11f General Services Administration authority.

3. a. The authority may delegate to an appropriate State agency within the General Services Administration the authority to undertake a construction project the aggregate amount of which, including labor and construction materials, is greater than \$25,000.00, or the amount determined pursuant to subsection b. of section 2 of P.L. 1954, c. 48 (C. 52:34-7), but less than \$500,000.00. As used in this section "construction project" means the renovation, improvement, repair or maintenance of a public building that is a component part of an authority project and the property adjacent thereto, but shall not include the construction of a new building.

b. A State agency delegated by the authority to undertake a construction project pursuant to this section shall have the authority to make, negotiate or award any contract necessary to complete the construction project and shall apply the award standard set forth in either R.S. 52:32-2 or section 7 of P.L. 1954, c. 48 (C. 52:34-12). The State agency shall comply with the applicable procedures for public advertisement for bids, the exceptions thereto and the waiver procedures.

4. There is appropriated from the General Fund to the New Jersey Building Authority the sum of \$5,000,000.00 for the purposes of this act and in furtherance of the initiation of any project to which this act applies, said sum to be repaid to the General Fund from the proceeds of the sale of bonds or notes issued with respect to the project.

5. This act shall take effect immediately.

Approved July 22, 1987.

CHAPTER 204

A SUPPLEMENT to the "Pesticide Control Act of 1971," approved June 1, 1971 (P.L. 1971, c. 176, C. 13:1F-1 et seq.).

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

C. 13:1F-17 Registration fee exemption.

1. Notwithstanding the provisions of the "Pesticide Control Act of 1971," P.L. 1971, c. 176 (C. 13:1F-1 et seq.) or any rule or regulation promulgated thereunder to the contrary, no registration fee shall be charged any certified private applicator who applies a pesticide on property or premises owned or rented by him and actively devoted to agricultural or horticultural use.

C. 13:1F-18 Definition.

2. For the purposes of this act "land actively devoted to agricultural or horticultural use" means land, not less than three acres in area, which is devoted to:

a. In the case of agricultural use, the production for sale of plants and animals useful to man, including but not limited to forages and sod crops; grains and feed crops; dairy animals and dairy products;

poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding or grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government; and

b. In the case of horticultural use, the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

3. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 205

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
DEPARTMENT OF HEALTH
20 Physical and Mental Health
21 Health Services

02-4220 Local and Community Health	
Services	\$500,000*
Grants:	
National Burn Victim Foundation,	
Orange, N.J.	(\$500,000)

2. All recipients of grants under this act shall report to the Department of Health on the use of the grant, including program activities and expenditures.

3. This act shall take effect immediately.

Approved July 23, 1987.

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

Statement to Chapter 205
(Senate Bill No. 2027 (2nd OCR))

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 2027 (2nd OCR) at the time of signing it my 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 provides a supplemental appropriation of \$750,000 from the General Fund to the Department of Health for a \$500,000 grant to the National Burn Victim Foundation (NBVF) in Orange, New Jersey and \$250,000 in grants to Level I trauma centers, critical care facilities or other facilities providing services to burn victims who are residents of Southern New Jersey. Pursuant to this bill, all grant recipients are required to report to the Department of Health on the use of their grants, including program activities and expenditures.

According to the National Burn Victim Foundation, the \$500,000 appropriation will enable the foundation to: 1) continue and expand programs for training medical, social work and criminal justice professionals in the use of techniques to determine suspected child abuse by burning; 2) prepare burned children for entry or return to school; 3) establish a program in the inner cities for the prevention of child abuse by burning; and 4) coordinate disaster planning and management for burn victims with the State Police, the trauma centers and other affected State departments.

According to the Department of Health, the remaining \$250,000 appropriated in this bill will provide funds for three Philadelphia area hospitals that have been designated as the regional burn care facilities for Southern New Jersey by the local Health Systems Agencies. Specifically, this \$250,000 appropriation will help reimburse these hospitals for the costs incurred in the treatment of New Jersey burn victims at these hospitals.

I fully support the \$500,000 appropriation to the National Burn Victim Foundation as I believe that this foundation provides an invaluable service for all the residents of the State in the area of child abuse prevention and detection and disaster preparedness training. I do not, however, support the remaining \$250,000 appropriation contained in this bill.

While I recognize that these three Philadelphia area hospitals have been designated as the regional burn centers for Southern New Jersey and acknowledge the high cost associated with treating these burn victims, I do not favor a policy of reimbursing out-of-State hospitals. I have been advised that these hospitals treat approximately 80 New Jersey residents annually. According to the Department of Health, however, the amount of uncompensated care absorbed by our all-payer system for medical debts incurred by Pennsylvania residents treated by New Jersey hospitals more than offsets any obligation the State may have to Pennsylvania for debts incurred in the treatment of New Jersey burn victims.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 1, Section 1, Line 4A: Delete "\$750,000"
insert "\$500,000"

Page 1, Section 1, Lines 9-16: Delete in entirety

Respectfully,

Thomas H. Kean
Governor

CHAPTER 206

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated out of the General Fund the following sum for the purposes specified:

DIRECT STATE SERVICES

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development

2890 New Jersey Commission on Science and Technology

24-2890 New Jersey Commission on

Science and Technology \$400,000

Special Purpose:

John P. Caufield Center for

Investigational Cancer Therapy (\$400,000)

2. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 207

AN ACT concerning weights and measures and amending R.S. 51:1-29
and supplementing Title 51 of the Revised Statutes.

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

1. R.S. 51:1-29 is amended to read as follows:

Commodity package labeling; slack filling.

51:1-29. a. No person shall distribute, expose for sale, sell, or have in his possession with intent to distribute, expose for sale or sell any article or commodity in package form, unless the label bears statements:

(1) Specifying the identity of the commodity in common terms;

(2) Identifying the legal name and principal place of business of the manufacturer, packer or distributor. The statement shall include the street address, city, state and ZIP code, except that the street address may be omitted if it is shown in a current city directory or telephone directory. If a person manufactures, packs or distributes a commodity in package form at a place other than his principal place of business, the statement may contain the principal place of business address in lieu of the actual place where the commodity was manufactured, packed or is to be distributed, unless that statement

would be misleading. Packages packed on the premises where sold shall not be required to comply with this paragraph; and,

(3) Specifying the net quantity of the contents by weight, measure, count or volume as prescribed by the State superintendent.

b. Reasonable variations, tolerances and exemptions from the requirements of subsection a. shall be permitted. The State superintendent shall by regulation fix the permitted variations, tolerances and exemptions.

c. (1) No container or package in which commodities are packaged shall have a false bottom, false sidewalls, false lid or covering, or be otherwise so constructed or filled, wholly or partially, as to constitute deception.

(2) No container shall be so nonfunctionally slack filled as to constitute deception. The State superintendent shall promulgate rules and regulations concerning nonfunctionally slack filled containers. As used in paragraph (2) of this subsection, "nonfunctionally slack filled" means a container which is filled to substantially less than its capacity for reasons other than (a) protection of the contents of the container or (b) the requirements of machines used for enclosing the contents in the container. As used in paragraph (2) of this subsection, "container" means the immediate receptacle in which the commodity is enclosed.

d. Any person who manufactures, packs, distributes, exposes for sale or sells any commodity in package form in violation of this section shall for the first offense be liable to a civil penalty of not less than \$50.00 nor more than \$100.00, and for a second offense to a civil penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a civil penalty of not less than \$250.00 nor more than \$500.00.

(1) No person shall be convicted of or assessed a civil penalty for a second or subsequent offense pursuant to this subsection unless the previous conviction:

(a) Occurred no earlier than one year prior to the occurrence of the second or subsequent offense; and

(b) Occurred at the same place of business as the second or subsequent offense. For the purposes of this paragraph, "same place of business" means identical store or outlet.

(2) Nothing in this subsection shall be deemed (a) to authorize or permit the imposition of penalties for second or subsequent offenses in conjunction with an adjudication of guilt based upon multiple counts or complaints arising from the same inspection, or (b) to mandate the imposition of penalties for a second or subsequent offense if, in the discretion of the court, the imposition of a penalty for a first offense would be just and proper.

e. A shipment, delivery, aggregation or lot of a commodity in package form may be examined for compliance with the required net quantity statement for determining the acceptance or rejection (off-sale action) by means of recognized sampling, statistical principles and methods published by the National Bureau of Standards. Packages having a minus error exceeding the Maximum Allowable Variation (MAV) shall be held in violation and appropriate legal action may be taken with respect to these individual packages according to the provisions of this section.

f. Notwithstanding any provision in Title 51 of the Revised Statutes, when a prosecution has been initiated against a retailer alleging a violation regarding any commodity in package form, the manufacturer or supplier of that package shall be substituted as the party-defendant upon motion, with the consent of all parties and the consent of that manufacturer or supplier, who shall agree to submit to the jurisdiction of the court. If a judgment imposed against a manufacturer or supplier remains unsatisfied, the State superintendent may docket that judgment in the Superior Court, and may enforce that judgment in the same manner as a judgment originating from the Superior Court.

C. 51:1-29.1 Hydrate of sodium tetraborate.

2. (New section) Notwithstanding any other provision of law to the contrary, a person may manufacture, pack, distribute, deliver, cause to be delivered, sell, expose for sale, or have in his possession with intent to do any of the foregoing, a commodity in package form consisting predominantly (more than 50%) of a hydrate of sodium tetraborate when the net weight of the contents of the package is less than that specified on its label, provided that (1) the package otherwise complies with current law, (2) the package bears a statement specifying the net quantity of its contents by volume, and (3) the volume of the contents of the package, measured by a reproducible free-fall method, equals or exceeds the volume so specified. If the National Bureau of Standards has published a reproducible free-fall method for measuring the volume of such a commodity, that

method shall be used for this section. A person may represent the price of such a commodity based upon the weight specified on its label.

3. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 208

AN ACT concerning youth suicide prevention, amending P.L. 1985, c. 195 and making an appropriation therefor.

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

1. Section 6 of P.L. 1985, c. 195 (C. 30:9A-17) is amended to read as follows:

C. 30:9A-17 Suicide prevention council.

6. a. There is established in the Department of Human Services a Youth Suicide Prevention Advisory Council. The council shall consist of 10 members as follows: the Commissioner of Human Services and the Commissioner of Education, or their designees, who shall serve as ex officio members; the project director of each of the three suicide prevention projects funded pursuant to this act; and five public members appointed by the Governor who are residents of this State, two of whom are generally knowledgeable about issues concerning youth suicide, one of whom is a member of a local school board, one of whom is a school administrator and one of whom is a secondary school classroom teacher. The members shall serve for a term of two years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. A member of the council is eligible for reappointment. The members of the council shall serve without compensation, but the council shall reimburse its members for the reasonable expenses incurred in the performance of their duties.

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.

The council may call to its assistance and avail itself of the services and assistance of any officials and employees of the State and its political subdivisions and their departments, boards, bureaus, commissions and agencies as it may require and as may be available to it for this purpose and may expend any funds as may be appropriated or otherwise made available to it pursuant to this act.

The Governor shall appoint the public members of the council within 90 days after the effective date of this act and the council shall organize as soon as may be practicable after the prevention projects have been approved and funded and the project directors selected.

b. The council shall: compile information on youth suicide prevention programs that are presently carried out in the State; disseminate this information and relevant information about the projects funded pursuant to this act to local school districts, community mental health services providers and the public; assess the most efficient and effective methods for establishing youth suicide prevention programs in other school districts and by other community mental health services providers; assess the cost for providing youth suicide prevention programs Statewide; and advise and provide technical information to the Commissioners of Human Services and Education on matters pertaining to youth suicide, upon their request.

c. The council shall report to the Governor and the Legislature by September 1, 1987 on the activities of the council, the effects of the three suicide prevention projects funded pursuant to this act, and the council's assessment of the most efficient and effective methods for establishing a Statewide program and the projected cost for doing so. The council shall include in its report recommendations for legislative or administrative action that may be necessary to ensure that youth suicide prevention services are available Statewide.

2. There is appropriated \$78,000.00 from the General Fund to the Department of Human Services. Of this sum, \$25,500.00 is allocated to the Youth Suicide Prevention Advisory Council established pursuant to section 6 of P.L. 1985, c. 195 (C. 30:9A-17), \$37,500.00 is allocated to the three suicide prevention projects funded pursuant to section 4 of P.L. 1985, c. 195 (C. 30:9A-15) and \$15,000.00 is allocated to fund an independent evaluation study of the suicide prevention projects.

3. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 209

AN ACT concerning the regulation of traffic by signs and pavement markings and amending R.S. 39:4-198.

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

1. R.S. 39:4-198 is amended to read as follows:

Traffic regulation signs.

39:4-198. No ordinance, resolution or regulation enacted, passed, or adopted by local authorities nor any regulation adopted by the Commissioner of Transportation under any power given by this chapter or any supplement thereto shall be effective unless due notice thereof is given to the public by placing a sign at the places where the ordinance, resolution or regulation is effective, and by briefing its provisions on signs according to specifications contained in this chapter or as specified by the current Manual on Uniform Traffic Control Devices for streets and highways. These signs shall be so placed as to be easily read by pedestrians or operators of vehicles. Except, in the case of "No Passing" zones, in lieu of or in addition to signs, notice shall be given to the public by highway pavement markings which conform to the current Manual on Uniform Traffic Control Devices for streets and highways.

2. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 210

AN ACT concerning limitations upon ownership of bank stocks and amending P.L. 1957, c. 70 and P.L. 1986, c. 5 and repealing sections 1, 7, 8 and 9 of P.L. 1986, c. 4.

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

1. Section 1 of P.L. 1957, c. 70 (C. 17:9A-344) is amended to read as follows:

C. 17:9A-344 Definitions.

1. As used in this act,

(a) "Bank" means an institution organized under the laws of the United States, a state of the United States, the District of Columbia, or a territory or possession of the United States, which does business in the United States that is not incidental to the institution's activities outside the United States and which (1) accepts deposits that the depositor has a legal right to withdraw on demand and (2) engages in the business of making commercial loans, except that "bank" does not include an organization operating under section 25 or section 25(a) of the "Federal Reserve Act," 38 Stat. 251 (12 U.S.C. §§601-604(a)) or 41 Stat. 378 (12 U.S.C. §611 et seq.) or a federally or State chartered savings and loan association. A "bank located outside of this State" means a bank which has its principal, head or main office outside of this State. A "bank located in this State" means a bank which has its principal, head or main office in this State;

(b) "Company" means a corporation, joint stock company, business trust, investment trust, general or limited partnership, voting trust, association, and any similar organized group of persons, whether incorporated or not, and whether or not organized under the laws of this State or any other state or any territory or possession of the United States or under the laws of a foreign country, territory, colony or possession thereof, other than a corporation all the capital of which is owned by the United States; "company" includes subsidiary and parent companies;

(c) "Stock" means a security issued by a bank or corporation which presently entitles the holder thereof to vote at meetings of shareholders of the bank or corporation for the election of directors, but does not include a security which entitles the holder thereof to vote for the election of directors only as a result of the failure to pay a dividend or to fulfill an obligation or satisfy a condition specified by the terms of the security;

(d) "Bank stock" means stock issued by a bank;

(e) "Subsidiary" of a company means (1) a corporation more than 50% of whose stock is owned by such company; and (2) an unincorporated company in which such company directly or indirectly owns more than a 50% share or interest;

(f) "Parent company" means a company of which another company is a subsidiary;

(g) "Own," "owner," "owned" and "ownership," when applied to stock, mean direct and indirect ownership of such stock, and includes stock not owned, but directly controlled with power to vote;

(h) "Foreign bank" means an institution organized under the laws of a foreign country which engages in the business of banking, is recognized as a banking entity by the bank supervisory or monetary authority of the country of its organization or principal banking operations, receives deposits to a substantial extent in the regular course of business and has the power to accept deposits which the depositor has a legal right to withdraw on demand;

(i) "Foreign bank holding company" means a company organized under the laws of a foreign country, which has one or more subsidiaries which are foreign banks and which has more than half of its consolidated assets located, or consolidated revenues derived, outside of the United States. As used in this subsection, "revenues" means gross income and "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States;

(j) "Bank holding company located in this State" means a bank holding company subject to the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. §1-41 et seq.), which is either organized under the laws of this State or the operations of whose banking subsidiaries are principally conducted in this State within the meaning of the "Bank Holding Company Act of 1956";

(k) "Foreign country" means the government of a country other than the United States or its territories or possessions.

(l) (Deleted by amendment, P.L. 1987, c. 210.)

2. Section 2 of P.L. 1957, c. 70 (C. 17:9A-345) is amended to read as follows:

C. 17:9A-345 Prohibited acquisitions.

2. Except as otherwise provided by section 3 of this act and P.L. 1986, c. 5 (C. 17:9A-370 et seq.),

(a) (Deleted by amendment, P.L. 1987, c. 210.)

(b) No company or person which owns more than 25% of the stock of either a bank located outside of this State or a foreign bank shall own or acquire ownership of more than 5% of the stock of a bank located in this State.

(c) Acquisition of ownership of more than a stated percentage of the stock of a bank shall include any acquisition of one or more shares after which the company or person owns more than the stated percentage.

In applying this section to a company, all bank stock owned by a subsidiary of such company and by the parent company of such company shall be deemed to be owned by such company.

(d) Nothing in this section shall prevent a company or person from acquiring the stock of a bank or assuming the deposit liabilities of a bank if the commissioner determines that the bank is in an unsound or unsafe condition, as determined by an evaluation of the bank's capital adequacy, asset quality, management, earnings or liquidity. The commissioner may rely upon a written evaluation of a bank's safety and soundness prepared by a federal or other state bank regulatory agency.

3. Section 2 of P.L. 1986, c. 5 (C. 17:9A-371) is amended to read as follows:

C. 17:9A-371 Conditions for acquisition of State banks.

2. a. Notwithstanding the provisions of any other law of this State, an eligible bank holding company may acquire and retain control of a bank or banks located in this State; provided the following conditions are complied with:

(1) At the time of the acquisition of control of the bank or banks located in this State, the bank holding company is an eligible bank holding company located in an eligible state which has reciprocal legislation in effect; and

(2) The eligible bank holding company shall have more than 50% of the total aggregate deposits of its banking subsidiaries in banking subsidiaries located in an eligible state or eligible states, each of which has reciprocal legislation in effect.

(3) (Deleted by amendment, P.L. 1987, c. 210.)

The commissioner shall have the authority to promulgate regulations for enforcement of the conditions of this subsection.

b. Nothing in this act shall be deemed to eliminate, reduce or waive any rights of any shareholders of the bank or bank holding company being acquired pursuant to any applicable law regarding those rights.

c. In the event an eligible bank holding company which controls a bank or banks in this State and in one or more eligible states shall cease to be an eligible bank holding company (1) as a result of obtaining control of a bank or banks located in a state which is not an eligible state or this State, or (2) as a result of having control of it obtained by a bank or bank holding company which is not an eligible bank holding company, then such bank holding company shall within one year make such divestitures as are necessary to comply with the provisions of this act. The commissioner shall promulgate regulations to provide a procedure for divestiture.

d. Notwithstanding the provisions of this act, a bank holding company shall not be required to divest its control of any bank as a result of any subsequent change in, or invalidity of, the laws of this State, another state or the United States or as a result of a state ceasing for any other reason to be an eligible state.

Repealer.

4. Section 1 of P.L. 1986, c. 4 (C. 17:9A-344.1) and sections 7, 8, and 9 of P.L. 1986, c. 4 are repealed.

5. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 211

AN ACT concerning public utilities and supplementing Title 48 of the Revised Statutes.

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

C. 48:3-2.1 Interest on utility overpayments.

1. A public utility shall pay or credit interest at a rate prescribed by the Board of Public Utilities on any overpayment made by a residential customer due to a billing error, unless the overpayment is fully refunded or credited to the customer's account within two billing cycles after written notification by the customer to the utility of the alleged error. For the purposes of this act, "billing error" means a charge to a residential customer in excess of that approved by the board for the type of service supplied to that customer, or in excess of the charge due for the service supplied to that customer as

measured or recorded by meter or other device, except that neither the amount of an estimated bill in and of itself, nor the amount due on a budget account installment, shall constitute a billing error. The board shall set and from time to time revise the interest rate in accordance with appropriate prevailing marketplace interest rates.

C. 48:3-2.2 Notice to customers.

2. The board shall require each public utility to annually provide written notice of the provisions of this act to each of its residential customers.

3. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 212

AN ACT concerning contributions to certain housing corporations or associations and amending P.L. 1971, c. 199 and P.L. 1962, c. 249.

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

1. Section 21 of P.L. 1971, c. 199 (C. 40A:12-21) is amended to read as follows:

C. 40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities, for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and not for commercial business, trade or manufacture, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality

without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or board of fire commissioners or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire company may be leased by such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for consideration, a part of which may be an agreement by the organization or association to render service or to provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) A duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or naval forces of the United States in any war in which the United States was engaged, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with powers to convey said lands and premises to the paraplegic veteran or veterans on whose behalf said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities or

one or more counties for the construction or maintenance thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the acquisition of publicly owned historic sites for their restoration, preservation, improvement and utilization for the benefit of the general public, or

(g) Any duly incorporated nonprofit cemetery organization or association serving the residents of the municipality or county, or

(h) Any duly incorporated nonprofit organization for the principal purpose of the education or treatment of persons afflicted with developmental disabilities including cerebral palsy, or

(i) Any county or municipal sewerage authority serving the residents of the county or municipality, for the use thereof for sewerage authority purposes, or

(j) Any duly incorporated nonprofit organization for the purpose of building or rehabilitating residential property for resale. Any profits from the resale of the property shall be applied by the nonprofit organization to the costs of acquiring and rehabilitating other residential property in need of rehabilitation owned by the county or municipality, or

(k) Any duly incorporated nonprofit organization or association, other than a political, partisan, sectarian, denominational or religious organization or association, which was established exclusively for the purpose of providing the youth of the county or municipality with educational, recreational, medical or social services.

(l) Any duly incorporated nonprofit housing corporation or any limited-dividend housing corporation or housing association organized pursuant to P.L. 1949, c. 184 (C. 55:16-1 et seq.) for the purpose of constructing housing for low or moderate income persons or families or handicapped persons.

2. Section 1 of P.L. 1962, c. 249 (C. 55:16-18.1) is amended to read as follows:

C. 55:16-18.1 Conveyance of property for housing.

1. The governing body of any municipality in which a project of a limited-dividend housing corporation or housing association is located, may, by ordinance, provide for the payment of money for the purpose of acquiring land for the project or convey, for consideration, which may be nominal in amount, real or personal property

for the project as a subsidy to such limited-dividend housing corporation or housing association. Every such ordinance shall specify the amount or amounts of such payments, the time or times they are payable, and the terms and conditions of such payments or the terms of the conveyance, as appropriate.

3. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 213

AN ACT providing for an increase in membership on county utilities authorities and amending P.L. 1957, c. 183.

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

1. Section 4 of P.L. 1957, c. 183 (C. 40:14B-4) is amended to read as follows:

C. 40:14B-4 Utilities authorities.

4. a. Any governing body may, in the case of a county by resolution or ordinance duly adopted, or in the case of a municipality by ordinance duly adopted, create a public body corporate and politic under the name and style of "the . . . municipal utilities authority," or of "the . . . county utilities authority," with the name of said county or municipality inserted. Said body shall consist of the five members thereof, who shall be appointed by the governing body as hereinafter in this section provided, and it shall constitute the county or municipal authority contemplated and provided for in this act and an agency and instrumentality of said county or municipality. After the taking effect of the resolution or ordinance for the creation of said body and the filing of a certified copy thereof as in section 7 of this act provided, five persons shall be appointed as the members of the county or municipal authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the county or municipal authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such

year. In the event of a vacancy in the membership of the county or municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the county or municipal authority to serve for such unexpired term.

b. (1) Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of seven members. The two additional members first appointed pursuant to the resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second and third Februarys next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of the additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by the county governing body as a successor to such additional member, or reappointment of the additional member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

(2) Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of nine members. The four additional members first appointed pursuant to said resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of said additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by said county governing body as a successor to such additional member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

c. Whenever the municipal authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 49 of this act (C. 40:14B-49) with one or more municipalities situate within any other county one additional member of the municipal authority for each such other county shall be appointed by the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for such other county shall serve for a term expiring on the first day of the fifth February

next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed, and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the municipal authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for such other county the municipal authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 49 of this act (C. 40:14B-49) with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

d. In any county wherein a county sewer authority is reorganized as a municipal authority pursuant to section 6 of this act (C. 40:14B-6), its governing body shall, by resolution or ordinance as appropriate, reappoint the existing members of the authority to terms corresponding to terms of members first appointed to a municipal authority pursuant to subsection a. of this section; provided, however, that, if said county sewer authority has seven members, then the existing members shall be reappointed to the reorganized municipal authority pursuant to subsections a. and b. of this section.

e. The governing body of a county or municipality may provide in the ordinance or resolution creating the utilities authority for not more than two alternate members. Alternate members shall be designated by the governing body as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The governing body of the county or municipality shall provide by ordinance or resolution for the order in which the alternates shall serve. The term of each alternate member shall be five years commencing on February 1 of the year of appointment; provided, however, that in the event two alternate members are appointed their initial terms shall be four and five years respectively. The terms of the first alternate members appointed pursuant to this amendatory act shall commence on the day of their appointment and shall expire on the fourth or fifth January 31 next ensuing after the date of their appointments, as the case may be. 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.

2. This act shall take effect immediately.

Approved July 23, 1987.

CHAPTER 214

AN ACT establishing the "Local Government Education Program" and making an appropriation therefor.

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

C. 52:27D-381 Local Government Education Program.

1. The Commissioner of the Department of Community Affairs shall establish and administer a program which shall be known as the "Local Government Education Program."

C. 52:27D-382 Purpose.

2. The purpose of this program is to enable county colleges to establish noncredit courses, workshops and seminars to educate elected or appointed county and municipal officials concerning the performance of their public functions and responsibilities.

C. 52:27D-383 Duties of commissioner.

3. The Commissioner of the Department of Community Affairs shall:

- a. Establish procedures for county colleges to apply for funds under the Local Government Education Program;
- b. Establish standards for the courses, workshops and seminars offered under the Local Government Education Program;
- c. Coordinate activities offered under the Local Government Education Program with similar activities offered by other agencies and institutions;
- d. Conduct a continuous review of the program; and
- e. Prescribe any other rules and regulations necessary to effectuate the purposes of this act.

4. There is appropriated to the Department of Community Affairs the sum of \$90,000.00 from the General Fund for the purpose of

effectuating the provisions of this act. Each county college located within a county of the first class shall be eligible for funds not exceeding \$10,000.00. All other county colleges shall be eligible for funds not exceeding \$5,000.00, except these county colleges may be eligible for up to an additional \$5,000.00 if they provide a Local Government Education Program to officials from a contiguous county which has no county college. Courses offered by county colleges pursuant to this act shall not be eligible for duplicate funding through the Department of Higher Education pursuant to N.J.S. 18A:64A-22.

5. This act shall take effect immediately.

Approved July 29, 1987.

CHAPTER 215

AN ACT creating a program in the Department of Human Services to support the provision of child care before and after regular school hours for school children and making an appropriation.

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

C. 30:5B-26 Findings, declarations.

1. The Legislature finds and declares:

a. That the increase in single-parent households and two-career families has resulted in a growing number of young children who are unsupervised from the time school ends until a parent returns from work, with one national study estimating that 6,000,000 children, aged five to 13, are unsupervised daily.

b. That unsupervised children are more likely to engage in drug abuse, alcohol abuse, or other delinquent behavior, and are at greater risk of being the victims of criminal acts.

c. That in many communities child care programs to serve these school-age children are nonexistent, too limited to accommodate the demand, or too expensive for some families to utilize.

d. That the State can play a useful and important role in the promotion of quality and adequate day care services which will benefit the well-being of children and families.

C. 30:5B-27 Child care grant program.

2. The Commissioner of Human Services shall establish a grant program to encourage and support the provision of nonsectarian child care in public and nonpublic school buildings or another appropriate location as approved by the commissioner before and after the regular school day for children. Subject to the availability of funds, the commissioner may award annual grants to assist local school boards, public agencies and nonprofit organizations which propose to offer nonsectarian child care to school-age children.

C. 30:5B-28 Applicant requirements.

3. The Commissioner of Human Services, in consultation with the Commissioner of Education and the Advisory Council on Child Care established pursuant to section 14 of P.L. 1983, c. 492 (C. 30:5B-14) and the Division on Women in the Department of Community Affairs established pursuant to P.L. 1974, c. 87 (C. 52:27D-43.8 et seq.), shall establish criteria for assessing the suitability of grant applicants. Each applicant for a grant under this act shall:

- a. Describe the need for and type of child care services to be furnished;
- b. Provide assurances that the applicant has knowledge of and experience in the special nature of child care services for school-age children;
- c. Provide assurances that each person to be employed by the applicant for child care has appropriate experience and character including a criminal history records check of the files of the State Bureau of Identification and the Federal Bureau of Investigation, Identification Division;
- d. Provide evidence that the applicant will be afforded use of an appropriate school facility or another appropriate location as approved by the commissioner, which may be a child care center licensed pursuant to P.L. 1983, c. 492 (C. 30:5B-1 et seq.);
- e. Provide assurances that the program will be in conformity with all appropriate statutes, regulations, ordinances, and such programs as shall be developed for the program created by this act;
- f. Provide a tentative budget for the program, including a proposed sliding-fee schedule which should reflect a family's capacity to pay;

g. Provide assurances that the parents of school-age children will be involved in the development and implementation of the child care program; and

h. Provide such other assurances and information as the commissioner shall reasonably require to carry out the provisions of this act.

C. 30:5B-29 Rules, regulations.

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

5. There is appropriated \$500,000.00 from the General Fund to the Department of Human Services to effectuate the purpose of this act. Of this sum, no more than 10% shall be used by the Department of Human Services for administrative costs.

6. This act shall take effect immediately.

Approved July 29, 1987.

CHAPTER 216

AN ACT concerning the eligibility requirements for individuals seeking unemployment compensation in successive benefit years and amending R.S. 43:21-4.

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

1. 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:

(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.

(4) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (1), (2), or (3) of this subsection, as applicable.

(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 benefit 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 individ-

ual 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 residing 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.

2. This act shall take effect on the 180th day following enactment.

Approved July 29, 1987.

CHAPTER 217

AN ACT concerning military compensation benefits, amending N.J.S. 38A:13-1, N.J.S. 38A:13-3, and N.J.S. 38A:13-4, and supplementing Title 38A of the New Jersey Statutes.

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

1. N.J.S. 38A:13-1 is amended to read as follows:

Compensation for militia injuries.

38A:13-1. A member of the organized militia who incurs an injury, disease or disability in the line of duty, and whose claim is approved by the Adjutant General or his duly appointed representative shall

be entitled to the same benefits as are provided in article 2 of chapter 15 of Title 34. If the member incurs death under the same conditions, the dependent members of the family of the deceased, if any, shall be entitled to compensation as provided in article 2 of chapter 15 of Title 34. To the extent that a member or dependent may be entitled to receive federal benefits for particular elements of a claim, the benefits provided pursuant to this section shall be reduced by the amount of the federal benefits paid for each element of a claim.

As used in this chapter "in line of duty" means that the injury, disease, disability or death has been sustained in the discharge of duty, in going to and from that duty, or in responding to, preparing for, or returning from an emergency while under orders from competent authority.

C. 38A:13-1.1 Standard of proof.

2. (New section) In any claim for compensation for injury or death from cardiovascular or cerebrovascular causes, the claimant shall prove by a preponderance of the credible evidence that the injury or death was produced by effort or strain related to the performance of duty involving a substantial condition, event or happening in excess of the wear and tear of the claimant's daily living and in reasonable medical probability caused in a material degree the cardiovascular or cerebrovascular injury or death resulting therefrom.

Material degree means an appreciable degree or a degree substantially greater than *de minimis*.

C. 38A:13-1.2 Other compensation limited.

3. (New section) Any person who becomes a member of the organized militia of the State of New Jersey shall be deemed to have surrendered his right to any other method, form or amount of compensation or determination thereof from the State or the organized militia, other than as provided in this chapter for any injury or death occurring to him in line of duty. Such entry into the militia shall bind the member's personal representative, surviving spouse and next of kin, as well as the State of New Jersey and the organized militia.

Neither the State, the organized militia nor any member of the organized militia shall be liable to anyone at common law or otherwise for an injury or death compensable under this chapter, including any injury or death that results from an act or omission occurring while the member was in the same service of the organized militia as the person whose actions caused that injury or death, except for

injury or death caused by an intentionally wrongful act of a co-member.

4. N.J.S. 38A:13-3 is amended to read as follows:

Claimant subject to examination.

38A:13-3. The Adjutant General may order an examination of a claimant to be made from time to time by a medical officer or officers or physician designated for that purpose. If the claimant refuses to permit such examination, he shall be barred from all right to any claim or allowance under this chapter. The Adjutant General may direct the removal of the claimant to a hospital for treatment on the recommendation of a medical officer or officers or a physician based on an examination. If the claimant refuses to permit such examination or to go to such hospital, or to follow the advice given or treatment prescribed for him therein, he may be barred from all right to any claim or allowance under this chapter at the discretion of the Adjutant General.

5. N.J.S. 38A:13-4 is amended to read as follows:

Contested case procedure.

38A:13-4. Notwithstanding the provisions of section 10 of P.L. 1978, c. 67 (C. 52:14F-8), contested case matters before the Department of Defense shall be presented to the Adjutant General who may appoint a board of officers to inquire into the merits of any claim under this chapter. The board shall have the power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify, and produce books and papers, and to punish their failure to do so. The reports and findings of the board are subject to the approval or disapproval of the Adjutant General who may accept, reject or modify the report and the findings of fact and conclusions of law of the board of officers. The Adjutant General may in his discretion request the Division of Workers' Compensation in the Department of Labor to assign a workers' compensation judge to hear a contested matter in place of the board of officers. The Adjutant General shall promulgate regulations governing the procedures for hearing contested cases prior to a referral of a contested case to the Division of Workers' Compensation in the Department of Labor.

6. This act shall take effect immediately and shall be applicable to all actions and proceedings that accrue, are pending or are filed after June 1, 1986.

Approved July 29, 1987.

CHAPTER 218

AN ACT to amend the record date of capital stock banks and savings banks and amending P.L. 1948, c. 67.

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

1. Section 96 of P.L. 1948, c. 67 (C. 17:9A-96) is amended to read as follows:

C. 17:9A-96 Record date.

96. Record date.

A. The board of directors may fix a date, which shall precede by not more than 60 days:

- (1) the date of any meeting of stockholders, or
- (2) the date upon which a dividend is to be paid, or
- (3) the date upon which rights are to be allotted, or
- (4) the date upon which any change or conversion or exchange of capital stock is to take effect, as a record date for the determination of the stockholders who are entitled
- (5) to notice of and to vote at any such meeting, and at any adjournment thereof, or
- (6) to receive payment of any such dividend, or
- (7) to receive any such allotment of rights, or
- (8) to participate in any such change, conversion or exchange of capital stock, and in any such case only stockholders of record at the close of business on the date so fixed shall be entitled to notice of and to vote at such meeting and at any adjournment thereof, or to receive payment of such dividend, or to receive such allotment of rights, or to participate in such change, conversion or exchange, as the case may be, notwithstanding any transfer of stock on the books of the bank after the record date so fixed.

B. If no such record date is fixed, only stockholders of record at the close of business on the sixty-fifth day prior to (1) the date of such meeting, or (2) the date upon which such dividend is to be paid, or (3) the date upon which such rights are to be allotted, or (4) the date upon which such change, conversion or exchange of capital stock is to take effect, shall be entitled to notice of and to vote at such

meeting and at any adjournment thereof, or to receive payment of such dividend, or to receive such allotment of rights, or participate in such change, conversion or exchange, as the case may be, notwithstanding any transfer of stock on the books of the bank subsequent to such sixty-fifth day.

2. This act shall take effect immediately.

Approved July 29, 1987.

CHAPTER 219

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 349 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	10
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	28
Gloucester	8
Hudson	20
Hunterdon	2
Mercer	8
Middlesex	18
Monmouth	16
Morris	13
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 July 29, 1987.

CHAPTER 220

AN ACT concerning hazardous material discharge training programs for municipal and county employees, supplementing P.L. 1984, c. 210 (C. 13:1K-15 et seq.) and making an appropriation.

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

C. 13:1K-33 Hazardous discharge training program.

1. Within 180 days of the effective date of this act and annually thereafter, the Division of State Police in the Department of Law and Public Safety and the Department of Environmental Protection shall establish and operate a hazardous material discharge initial emergency response training program for municipal and county agents or officers involved in investigating suspected hazardous material discharges. The training program shall be a one day program offered in different regions of the State in order to be accessible to all municipalities and counties. Each municipality and county shall, every two years, send to the training program that individual primarily responsible for activating the municipality's or county's hazardous material emergency response program or that individual's designee. Each municipality and county may send any other individuals with similar responsibilities as may be deemed necessary. A municipality's responsibility pursuant to this section shall not be fulfilled if the individual sent to the training program serves as a regional response

agent for hazardous material discharges for more than one municipality.

C. 13:1K-34 Purposes.

2. The hazardous material discharge training program shall be designed to enable its participants to competently:

- a. Verify if a hazardous material discharge has occurred;
- b. Identify the type and amount of the hazardous material;
- c. Insure timely notification of the discharge incident to the appropriate municipal, county and State officials;
- d. Know the responsibilities of municipal, county and State organizations in dealing with hazardous materials;
- e. Know the appropriate precautions to safeguard the public health and safety until specialized hazardous material response personnel arrive; and
- f. Communicate the required notification information to all other municipal representatives who may potentially receive the initial call regarding a hazardous material discharge.

3. There is appropriated to the Division of State Police in the Department of Law and Public Safety from the General Fund the sum of \$25,000.00 to implement the provisions of this act.

C. 13:1K-35 Annual appropriation.

4. There shall be annually appropriated to the Division of State Police in the Department of Law and Public Safety from the General Fund such sums as the Legislature deems necessary to continue implementing this act. The division and the Department of Environmental Protection shall approve the expenditure of any such funds, including the funds appropriated pursuant to section 3 of this act.

5. This act shall take effect immediately.

Approved July 29, 1987.

CHAPTER 221

AN ACT concerning eligibility for the "Pharmaceutical Assistance to the Aged and Disabled" program and amending P.L. 1975, c. 194.

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

1. Section 2 of P.L. 1975, c. 194 (C. 30:4D-21) is amended to read as follows:

C. 30:4D-21 Pharmaceutical assistance eligibility.

2. 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 \$13,650.00 if single or, if married, whose annual income combined with that of his spouse is less than \$16,750.00, 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. This act shall take effect immediately and shall be retroactive to December 31, 1986.

Approved July 29, 1987.

CHAPTER 222

AN ACT concerning the proceeds of the State lottery, and supplementing P.L. 1970, c. 13 (C. 5:9-1 et seq.).

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

C. 5:9-22.1 Eligibility for lottery proceeds.

1. For the purposes of P.L. 1970, c. 13 (C. 5:9-1 et seq.), any program of education approved by the Department of Education or the Department of Higher Education which is intended, in whole or in part, to serve citizens of this State of the age of 65 years or over, shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

2. This act shall take effect immediately.

Approved July 30, 1987.

CHAPTER 223

AN ACT requiring the Director of the Division on Aging in the Department of Community Affairs to establish a Retiree Retraining and Employment Demonstration Program 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 the development of alternatives for the employment of retirees will benefit them by serving as a demonstration of their continuing value as members of society; that employers will also benefit by having a mechanism for finding skilled individuals to fill occupations in which there are skill shortages; and that the success of this innovative program could provide information and serve as a model for the development of other programs in the State.

2. The Director of the Division on Aging in the Department of Community Affairs shall establish a Retiree Retraining and Employment Demonstration Program in the Division of Community Education of Middlesex County College to develop approaches to the effective employment of retirees.

3. The director shall report to the Governor and Legislature no later than six months after the expiration date of this act concerning the effects of the Retiree Retraining and Employment Demonstration Program with respect to:

- a. Assessing the demand for the program's services;
- b. Assessing the program's efficiency and effectiveness;
- c. Assessing the effectiveness of the retraining, recruitment and placement of retirees in private sector employment;
- d. The projected costs for establishing a Statewide retiree retraining and employment program; and
- e. Recommendations for permanently establishing a Statewide program.

4. Subject to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), the Commissioner of the Department of Community Affairs shall adopt all regulations necessary to effectuate the purposes of this act.

5. There is appropriated \$98,500.00 from the General Fund to the Department of Community Affairs to effectuate the purposes of this act.

6. This act shall take effect on January 1, 1987 and shall expire on December 31, 1987.

Approved July 30, 1987.

CHAPTER 224

AN ACT concerning contracts by county and municipal hospitals in certain cases and amending P.L. 1985, c. 287.

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

1. Section 1 of P.L. 1985, c. 287 (C. 30:9-87) is amended to read as follows:

C. 30:9-87 Joint purchases by hospitals.

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 through a private nonprofit hospital association.

2. This act shall take effect immediately.

Approved July 30, 1987.

CHAPTER 225

AN ACT concerning the oversight and examination of certain insured institutions and savings and loan holding companies by the Commissioner of Banking, and amending and supplementing P.L. 1963, c. 144 (C. 17:12B-1 et seq.).

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

C. 17:12B-281 Definitions.

1. (New section) As used in this act:
 - a. "Insured institution" and "savings and loan holding company" shall have the respective meanings set forth in Title IV, section 408 of the "National Housing Act," as amended (12 U.S.C. §1730a).
 - b. "State association" means any savings and loan association, building and loan association, or any corporation, however named, operating pursuant to the provisions of P.L. 1963, c. 144 (C. 17:12B-1 et seq.). "State association" shall also include a person who controls an association when used in section 4 of this act.
 - c. "Person" means an individual or company.
 - d. "Company" means any corporation, partnership, trust, joint-stock company, association or similar organization, but does not include the Federal Savings and Loan Insurance Corporation, any Federal Home Loan Bank, or any company the majority of the shares of which is owned by the United States or any state, or by an officer of the United States or any state in his official capacity, or by an instrumentality of the United States or any state.
 - e. (1) "Control" of an insured institution or state association means:
 - (a) Owning, controlling, or having power to vote 25% or more of the outstanding shares of any class of voting securities of an insured institution, directly or indirectly, or acting through one or more persons;
 - (b) Controlling in any manner the election of a majority of the directors, trustees, general partners, or individuals exercising similar functions of the insured institution; or
 - (c) Exercising or having the power to exercise directly or indirectly a controlling influence over the management or policies of an insured institution;

(2) A person which is a state association shall not be deemed to control voting securities or assets of a state association acquired: (a) in good faith in a fiduciary capacity, except where those voting securities are held in a trust that constitutes a company; or (b) in the regular course of securing or collecting a debt previously contracted in good faith which securities are disposed of within a period of two years after the date on which they were acquired or after the enactment of this act, whichever is later;

(3) A person is deemed to control voting securities or assets owned, controlled, or held directly or indirectly:

(a) by any subsidiary of the person; or

(b) in a fiduciary capacity, including by pension and profit-sharing trusts, for the benefit of the shareholders, members, employees, or individuals serving in similar capacities, of the person or of any of its subsidiaries; or

(c) in a fiduciary capacity for the benefit of the person or any of its subsidiaries.

f. "Subsidiary" means any person or company which is controlled by another person or company.

g. "Voting securities" means shares of common or preferred stock, general or limited partnership shares or interests or similar interests if the shares or interests, by statute, charter, or in any manner, entitle the holder:

(1) to vote for or to select directors, trustees, partners, or persons exercising similar functions for the issuing company; or

(2) to vote on or to direct the conduct of the operations or other significant policies of the issuing person.

Preferred shares, limited partnership shares or interests, or similar interests are not "voting securities" if:

(1) any voting rights associated with the shares or interests, including the right to select or vote for the selection of directors, trustees, or partners or persons exercising similar functions, are limited solely to the type customarily provided by statute with regard to matters that would significantly and adversely affect the rights or preference of the security or other interest, such as the issuance of additional amounts or classes of senior securities, the modification of the terms of the security or interest, the dissolution of the issuing

person, or the payment of dividends by the issuing person when preferred dividends are in arrears, or, entitle the holder thereof to vote for the election of directors, trustees or partners or persons exercising similar functions only as the result of the failure to pay a dividend or to fulfill an obligation or satisfy a condition specified by the terms of the shares or interests; and

(2) the shares or interests represent an essentially passive investment or financing device and do not otherwise provide the holder with control over the issuing person.

h. "Commissioner" means the Commissioner of Banking.

i. "Department" means the Department of Banking.

j. "United States" means the United States and includes any of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

C. 17:12B-282 Reporting requirements.

2. (New section) a. A savings and loan holding company or an insured institution shall, upon the request of the commissioner, provide to the commissioner a copy of its filings with the Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, or their successors, and the Securities and Exchange Commission.

b. A person, other than a savings and loan holding company, a state of the United States, the United States or a corporation the majority of the shares of which are owned by the United States or by any state, which controls a state association, shall annually provide the following information to the commissioner on or before April 30:

(1) The identity, personal history, business background and experience of the person, including material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which the person is a party and any criminal indictment or conviction of the person issued by a state or federal court;

(2) A statement of the assets and liabilities of the person, for each of five preceding fiscal years, together with related statements of income and source and application of funds for each of those fiscal years, prepared in accordance with generally accepted accounting principles consistently applied; and

(3) Any additional relevant information in that form which the commissioner may require by rule or regulation or by specific request.

c. The commissioner may by rule or regulation or on an individual basis exempt persons from the reporting requirements of this section.

C. 17:12B-283 Examination; report.

3. (New section) a. The commissioner shall have the right to examine any savings and loan holding company which controls a state association, the cost of which examination shall be assessed against and paid by the savings and loan holding company in an amount to be set by rule or regulation of the commissioner.

b. The examination authorized by this section shall be conducted jointly, concurrently or in lieu of examinations made by a federal or other state regulatory agency. The commissioner shall use, to the extent deemed feasible, filings and reports made by the savings and loan holding company which controls a state association to federal or other state regulatory authorities.

c. A copy of any examination report prepared by the department may be given to any federal or other state regulatory authority pursuant to a written agreement providing for the exchange of reports of examinations between the department and the federal or other state regulatory authority.

d. Except as provided in subsection c. of this section, every report and copy of a report of examination of a savings and loan holding company made by or under the supervision of the commissioner and every report and copy of a report of examination of a savings and loan holding company which proposes to control or controls a state association made by or under the supervision of any federal or other state regulatory authority shall be confidential, and shall not be made public by any officer, director or employee of the savings and loan holding company or the department. These reports and reports of examination shall not be subject to subpoena or to admission into evidence in any action or proceeding in any court, except pursuant to an order of the court made upon notice to the commissioner and after affording the commissioner an opportunity to advise the court of reasons for excluding from evidence the report or any portion thereof. The court shall order the issuance of a subpoena for the production or admission into evidence of any report or portion thereof, only if it is satisfied that: (1) it is material and relevant to the issues in the proceedings; and (2) the ends of justice and public advantage will be served thereby. This subsection shall not apply to

any action or proceeding instituted by the commissioner or Attorney General pursuant to any law of this State.

C. 17:12B-284 Notice of proposed acquisition.

4. (New section) a. No person, acting directly or indirectly, or through or in concert with one or more other persons, shall acquire or offer to acquire or exercise control of a state association unless the commissioner has been given 60 days' prior written notice of the proposed acquisition, and has not issued a notice disapproving the proposed acquisition during that period or during an additional 30-day period immediately thereafter. The period for disapproval may be further extended only if the commissioner determines that any acquiring party has not furnished all the information required under subsection f. of this section or that in his judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the commissioner issues written notice of his intent not to disapprove the acquisition.

b. If the commissioner determines that he must act immediately upon notice of a proposed acquisition in order to prevent the probable failure of the state association involved in the proposed acquisition, he may waive the approval process requirements of this section.

c. Within three days after the date of the commissioner's decision to disapprove any proposed acquisition, the commissioner shall notify the acquiring party in writing of the disapproval. The notice shall provide a statement of the basis for the disapproval.

d. Within 10 days of receipt of a notice of disapproval, the acquiring party may ask the commissioner in writing to hold a hearing on the proposed acquisition. The hearing shall be held in accordance with the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) and any rules or regulations adopted thereunder.

e. The commissioner's disapproval of a proposed acquisition following a hearing shall be subject to review by the Appellate Division of the Superior Court.

f. Except as otherwise provided by rule or regulation, a notice of proposed acquisition filed pursuant to this section shall contain the following information:

(1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition

is to be made, including material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which the person is a party and any criminal indictment or conviction of the person issued by a state or federal court;

(2) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of those fiscal years, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each person, together with related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the filing of the notice;

(3) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

(4) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings between or among the parties;

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the state association or savings and loan holding company, sell its assets or merge it with any company, or make any other major changes in its business or corporate structure or management;

(6) The identification of any person employed, retained or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of that employment, retainer, or arrangement for compensation;

(7) Copies of all invitations, tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

(8) Any additional relevant information in such form as the commissioner may require by rule or regulation or by specific request in connection with any particular notice.

g. In determining whether to approve a proposed acquisition pursuant to this section, the commissioner may consider the following factors with respect to the applicant:

- (1) The financial and the managerial resources and experience of the applicant;
- (2) The competence, character, and integrity of the applicant;
- (3) The applicant's plans and intentions with respect to the operation of the state association;
- (4) Any other factors which the commissioner may deem relevant to the acquisition.

h. In determining whether to approve a proposed acquisition pursuant to this section, the commissioner may consider the following factors with respect to the state association:

- (1) The financial condition and prospects of the state association, which shall include consideration as to the sufficiency of current or projected capital positions, as well as the level of indebtedness of the state association, before and after the acquisition;
- (2) The convenience and needs of the depositors and the communities served by the state association; and
- (3) The effect of the proposed acquisition on the safety and soundness of the state association.

i. The commissioner may disapprove any proposed acquisition if:

- (1) The financial condition of any acquiring person is such as might jeopardize the financial stability of the state association or prejudice the interests of the depositors of the state association;
- (2) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the state association, or in the interest of the public to permit such person to control the state association; or
- (3) Any acquiring person neglects, fails, or refuses to furnish all the information required by the commissioner.

j. Whenever any state association makes a loan or loans, secured, or to be secured, by 25% or more of the outstanding voting stock of a state association, the president or other chief executive officer of the lending state association shall promptly report this fact to the department upon obtaining knowledge of the loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized state association prior to its opening.

k. The report required by subsection j. of this section shall contain the information required by subsection f. of this section, and any other relevant information the department may require by rule or regulation or by specific request in connection with any particular report.

l. Within 12 months after a change of control, a state association shall report promptly to the commissioner any change or replacement of its chief executive officer or of any director, and shall include in the report a statement of the past and current business and professional affiliations of any new chief executive officer or director.

m. This section shall not apply to the following transactions:

(1) Any transaction subject to Regulation 563.22 of the Federal Home Loan Bank Board's rules governing the Federal Savings and Loan Insurance Corporation (12 CFR 563.22) or the provisions of Article XIII of P.L. 1963, c. 144 (C. 17:12B-198 through 17:12B-212);

(2) The acquisition of additional shares of a class of voting securities of a state association or person by any person who has lawfully acquired and maintained control of 25% or more of that class of voting securities after filing the notice required under this section;

(3) The acquisition of voting securities in good faith in a fiduciary capacity, except that in circumstances described in subparagraph (b) of paragraph (2) of subsection e. of section 1 of this act, the person in control of the voting securities shall within 60 days of acquisition provide the commissioner with a notice containing the information specified in subsection f. of this section and dispose of the voting securities if the commissioner objects to the control, or in situations where the fiduciary has sole discretionary voting authority, provide the commissioner with a notice containing the information specified in subsection f. and dispose of the sole voting power if the commissioner objects to the voting authority;

(4) The acquisition of voting securities, which would otherwise require a notice under this section, in satisfaction of a debt previously contracted in good faith if the commissioner is notified within 60 calendar days after acquisition and the acquiring party provides any relevant information requested by the commissioner;

(5) The acquisition of voting securities through inheritance or a bona fide gift if the commissioner is notified within 60 calendar days after acquisition and the acquiring party provides any relevant information requested by the commissioner;

(6) The acquisition of the power to vote securities through receipt of a revocable proxy in connection with a proxy solicitation for the purposes of conducting business at a regular or special meeting of a state association or person in control of a state association, if the proxy terminates within a reasonable time after the meeting;

(7) The receipt of voting securities through a stock dividend or stock split if the proportional interest of the recipient in a state association or person in control of a state association remains substantially the same;

(8) The acquisition of voting securities acquired in connection with the underwriting of securities if the securities are held only for a period of time as will permit the sale thereof on a reasonable basis;

(9) Acquisition by any corporation the majority of the shares of which are owned by the United States;

(10) Transactions entered into prior to the effective date of this act;

(11) Any transaction for which the approval of the commissioner is required prior to consummation other than pursuant to this section;

(12) Transactions which the commissioner shall determine to be exempt from the application of this section; or

(13) Acquisition by any company which immediately prior to that acquisition could be examined by the commissioner pursuant to section 3 of this act, but in such case the commissioner shall be notified within 30 calendar days after the acquisition.

C. 17:12B-285 Fees.

5. (New section) The following fees shall be paid to the commissioner for the use of the State. The fees shall be in the minimum amount indicated or in such amount as provided by regulation of the

commissioner, which amount shall not exceed the maximum amount provided below:

	Minimum	Maximum
a. Filings pursuant to subsection a. of section 2 of this act, per item filed	\$ 50.00	\$ 100.00
b. Filings pursuant to subsection b. of section 2 of this act, per item filed	50.00	100.00
c. Notice pursuant to subsection a. of section 4 of this act	625.00	2,500.00
d. Request for hearing pursuant to subsection d. of section 4 of this act	625.00	2,500.00
e. Report required by subsection j. of section 4 of this act	50.00	100.00
f. Additional report required by subsection k. of section 4 of this act	50.00	100.00
g. Report required by subsection l. of section 4 of this act	50.00	100.00
h. Notice required by paragraph (3) of subsection m. of section 4 of this act	50.00	100.00
i. Notice required by paragraph (4) of subsection m. of section 4 of this act	50.00	100.00
j. Notice required by paragraph (5) of subsection m. of section 4 of this act	50.00	100.00

C. 17:12B-286 FSLIC insurance required.

6. (New section) It shall be unlawful, on and after the date three years following the effective date of this act, for any state association to operate without insurance of its accounts by the Federal Savings and Loan Insurance Corporation as defined in subsection (20) of section 5 of P.L. 1963, c. 144 (C. 17:12B-5), (hereinafter referred to as "FSLIC insurance").

a. Within one year of the effective date of this act, every state association shall, as a condition to operate in this State, apply for FSLIC insurance.

b. Any state association which has failed to apply for FSLIC insurance within one year of the effective date of this act, or which has been denied a commitment for FSLIC insurance, shall, within

90 days thereafter, begin steps to merge with an insured association, or transfer, sell or exchange in bulk its assets to an insured association, or a banking institution as defined in subsection (2) of section 1 of P.L. 1948, c. 67 (C. 17:9A-1). Liquidation following the transfer, sale or exchange in bulk of its assets shall be managed and directed by the thereupon to be dissolved state association's board of directors in accordance with the provisions of section 205 and sections 207 through 212 of P.L. 1963, c. 144 (C. 17:12B-205 and 17:12B-207 through 17:12B-212).

c. A state association may apply in writing for an extension of time to obtain FSLIC insurance or to consummate a merger or bulk sale. The commissioner may grant one or more 90-day extensions of time, but not exceeding one year, for a state association to obtain FSLIC insurance or cease its operations as provided by this section.

C. 17:12B-287 Operation by commissioner.

7. (New section) In the event that any state association shall fail to comply with the provisions of this act, the commissioner may take charge of the state association and possession of all its assets, books and records, and continue the operation of its business until the possession and management shall be returned to its board, or until the association shall merge, be dissolved or liquidated. The operation of the state association by the commissioner shall be in accordance with the provisions of Article XII of P.L. 1963, c. 144 (C. 17:12B-177 through 17:12B-197).

C. 17:12B-288 Insurance required for charter.

8. (New section) No state association shall be granted a charter by the commissioner on or after the effective date of this act, unless the state association has obtained a commitment for insurance of its accounts by the Federal Savings and Loan Insurance Corporation.

9. Section 14 of P.L. 1963, c. 144 (C. 17:12B-14) is amended to read as follows:

C. 17:12B-14 Contents of certificate of incorporation of a mutual association.

14. Contents of certificate of incorporation of a mutual association. The incorporators shall personally sign a certificate of incorporation, which shall state:

(1) The name of the State association, which shall contain the words "savings and loan association" or "savings bank S.L. A." The name shall not be one already in use by another association in this State, nor one so similar thereto as to deceive the public or lead to uncertainty or confusion and this provision shall be subject to any

law otherwise restricting or prohibiting the use of the word "bank" or "banker" or "banking"; provided, however, that any association organized under this act may make representations describing its powers, services or functions provided for in this act.

(2) The street, street number, if any, and the municipality in this State in which the State association is to be located.

(3) That it is incorporated to operate as a mutual association pursuant to this act for the purposes herein stated.

(4) The name, residence (including street and number, if any) post office address and occupation of each incorporator.

(5) The amount which each incorporator agrees to subscribe for and pay into the guaranty account of the State association.

10. Section 224 of P.L. 1963, c. 144 (C. 17:12B-224) is amended to read as follows:

C. 17:12B-224 Conversion from Federal to State charter; procedure.

224. Conversion from Federal to State charter; procedure. Any federal association may convert itself into an association of this State with the same force and effect as though originally incorporated under this act, and the proceedings to effect such conversion shall be as follows:

(a) When in the judgment of the board of such federal association it shall be deemed advisable and for the interests of its members that the same shall be converted into an association of this State, the board of directors shall adopt a resolution to that effect.

(b) After the adoption of such resolution, a meeting of the members of the association shall be held upon not less than 10 days' written notice to the members by mail, postage prepaid, directed to their addresses appearing on the books of the association, which notice shall contain a statement of the time, place and purpose for which such meeting is called. Proof by affidavit of mailing of such notice shall be mailed to the Federal Home Loan Bank Board before the time of such meeting.

(c) At a meeting of the members of any such federal association held as provided in paragraph (b) of this section, such members may by the affirmative vote of two-thirds of the members present either in person or by proxy, declare by resolution the determination to convert the association into an association of this State. A copy of the minutes of the proceedings of such meeting of the members,

verified by the affidavit of the president or vice-president, and the secretary of the meeting, shall be filed in the office of the commissioner and mailed to the Federal Home Loan Bank Board, within 10 days after the date of such meeting.

(d) Within 30 days after the date of the meeting held as provided in paragraphs (b) and (c) of this section, a majority of the board of such federal association shall subscribe, acknowledge and deposit with the commissioner in duplicate, a certificate which shall contain:

1. The name of the association, which shall not be so nearly like that of any other association as to deceive the public, and the words "savings and loan association" or "savings bank S.L.A." shall form a part thereof;

2. The municipality where it is to be located and its business transacted, which shall be within this State;

3. A statement that it is to operate as an association pursuant to this act for the purposes stated herein;

4. The name, residence, occupation and post office address of each officer and director;

5. Application for the approval of the commissioner to the conversion of said association into an association of this State.

C. 17:12B-289 Rules, regulations.

11. (New section) The commissioner shall have the authority to promulgate rules and regulations necessary to carry out the purposes of this act.

C. 17:12B-290 Violations; penalties.

12. (New section) Upon a finding by the commissioner, after notice and an opportunity to be heard, of a violation by any person of any provision of this act, or any regulation or order of the commissioner issued pursuant thereto, the commissioner may order the person to cease any violation or to pay a civil penalty not in excess of \$1,000.00 per day for each day that the violation continues, or both, the penalty being recoverable in the name of the commissioner in a summary proceeding pursuant to "the penalty enforcement law," N.J.S. 2A:58-1 et seq.

C. 17:12B-291 Savings bank S.L.A.

13. (New section) Notwithstanding the provisions of section 14 of P.L. 1963, c. 144 (C. 17:12B-14) or any other law of this State, no state association, including a capital stock association, now or

hereafter organized pursuant to P.L. 1963, c. 144 (C. 17:12B-1 et seq.) shall use the words "savings bank S.L.A." in its name, representations or advertisements, without obtaining the commissioner's prior approval as herein provided and subject to other terms and conditions as the commissioner may specify by regulation. The commissioner, upon application of a state association and approval thereof by the commissioner, may authorize a state association to use the words "savings bank S.L.A." in its name, representations or advertisements, if he determines that: a. the use of the words "savings bank S.L.A." by the state association is in the public interest; b. the state association is an insured association; c. the state association is being operated in a safe and sound manner and has adequate capital; d. the state association shall not assume or use a name already in use by a mutual or capital stock savings bank organized pursuant to P.L. 1948, c. 67 (C. 17:9A-1 et seq.), as amended, nor a name so similar thereto as to deceive the public or lead to uncertainty or confusion; provided, however, that the commissioner shall not approve an application filed pursuant to this section if the state association meets one or both of the tests applicable to a supervisory merger or supervisory acquisition as provided in subsections a. and b. of section 2 of P.L. 1982, c. 8 (C. 17:16J-2), except that such application may be approved by the commissioner in the course of an acquisition made pursuant to P.L. 1963, c. 144 (C. 17:12B-1 et seq.) and P.L. 1982, c. 8 (C. 17:16J-1 et seq.).

Repealer.

14. Sections 44, 45, 46 and 47 of P.L. 1974, c. 137 (C. 17:12B-273 through C. 17:12B-276) are repealed.

15. This act shall take effect immediately but shall remain inoperative until the enactment into law of Senate Bill No. 2428 of 1986.

Approved July 30, 1987.

CHAPTER 226

AN ACT permitting insured institutions and savings and loan holding companies to acquire other insured institutions or savings and loan holding companies and supplementing P.L. 1963, c. 144 (C. 17:12B-1 et seq.).

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

C. 17:12B-278 Definitions.

1. As used in this act:

a. "Insured institution," "savings and loan holding company," and "control" shall have the respective meanings set forth in section 408(a) of the "National Housing Act," as amended (12 U.S.C. §1730a). "Insured institution" shall also include federal savings banks, whose accounts are insured by the Federal Savings and Loan Insurance Corporation, as defined in 12 CFR 561.1.

b. "Savings and loan subsidiary" means an insured institution or savings and loan holding company, more than 50% of the voting shares or members' rights of which are owned or controlled, directly or indirectly, by a savings and loan holding company.

c. "Central-Atlantic Region" means the states of New Jersey, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia.

d. "Insured institution deposits" means the total domestic deposits in insured institutions in each state according to the most recent available statistics of the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank System or, if those statistics are not available, from sources designated by the commissioner.

e. "Commissioner" means the Commissioner of Banking.

f. "Eligible state" means any state which meets either or both of the following conditions:

(1) Any state in the Central-Atlantic Region, when at least two of those states, in addition to this State, each of which has at least \$20,000,000,000.00 in insured institution deposits, have reciprocal legislation in effect; and

(2) Any state or territory of the United States, when at least 13 states in addition to this State (for this purpose the District of Columbia is included as a state, but all other territories are excluded), at least four, other than this State, of which are among the 10 states, other than this State, with the largest amount of insured institution deposits, have reciprocal legislation in effect.

g. "Eligible insured institution" means an insured institution:

(1) Located in an eligible state which has reciprocal legislation in effect, other than this State;

(2) Which is not directly or indirectly controlled by an insured institution or a savings and loan holding company which is not located in an eligible state; and

(3) Which has at least 75% of the total aggregate deposits of the insured institution and the savings and loan subsidiaries of any savings and loan holding company directly or indirectly controlling the insured institution, if any, in an eligible state or states.

h. "Eligible savings and loan holding company" means a savings and loan holding company:

(1) Located in an eligible state which has reciprocal legislation in effect, other than this State;

(2) Which is not directly or indirectly controlled by a savings and loan holding company which is not located in an eligible state; and

(3) Which has at least 75% of the total aggregate deposits of its savings and loan subsidiaries in savings and loan subsidiaries located in an eligible state or states.

i. "Location" or "located," when referring to an insured institution, means the state in which the amount of aggregate deposits of all of its offices in that state is greater than the amount of aggregate deposits of all its offices in any one other state or foreign jurisdiction; when referring to a savings and loan holding company, "location" or "located" means the state in which the amount of aggregate deposits of all of its savings and loan subsidiaries in that state is greater than the amount of aggregate deposits of all of its savings and loan subsidiaries in any one other state or foreign jurisdiction.

j. "Reciprocal legislation" means statutory law of a state of the United States, including the District of Columbia, which authorizes or permits an insured institution or a savings and loan holding company, or both, located in this State to acquire insured institutions

or savings and loan holding companies, or both, located in that state on terms and conditions substantially the same as the terms and conditions pursuant to which an insured institution or a savings and loan holding company located in that state may acquire insured institutions or holding companies, or both, located in this State. The fact that the law of that other state imposes limitations or restrictions on the acquisition of insured institutions or savings and loan holding companies, or both, located in that state by an insured institution or savings and loan holding company, or both, located in this State shall not necessarily mean that the law of that state is not reciprocal legislation; provided, however, that if the law of the other state limits acquisitions by an insured institution or a savings and loan holding company, or both, located in this State to insured institutions or savings and loan holding companies, or both, which are not in competition with insured institutions or savings and loan holding companies, or both, located in or chartered by that state or to insured institutions or savings and loan holding companies which do not have customary deposit and commercial loan powers, the law of that other state shall not be reciprocal legislation. If the reciprocal legislation of that other state imposes limitations or restrictions on the acquisition or ownership of an insured institution or savings and loan holding company located in that state by an insured institution or savings and loan holding company, or both, located in this State, substantially the same limitations and restrictions shall be applicable to the eligible insured institution or eligible savings and loan holding company, or both, located in that other state with respect to its acquisition of insured institutions or savings and loan holding companies, or both, located in this State.

C. 17:12B-279 Conditions for acquisition of control.

2. a. Notwithstanding the provisions of any other law of this State, an eligible insured institution or eligible savings and loan holding company may acquire and retain control of an insured institution or savings and loan holding company or insured institutions or savings and loan holding companies located in this State providing the following conditions are complied with:

(1) At the time of the acquisition of control of the insured institution or savings and loan holding company or insured institutions or savings and loan holding companies located in this State, the insured institution or savings and loan holding company is an eligible insured institution or eligible savings and loan holding company located in an eligible state which has reciprocal legislation in effect.

(2)(a) The eligible insured institution shall have more than 50% of the total aggregate deposits of the insured institution and the savings and loan subsidiaries of any savings and loan holding company directly or indirectly controlling the insured institution, if any, in insured institutions located in an eligible state or states each of which has reciprocal legislation in effect.

(b) The eligible savings and loan holding company shall have more than 50% of the total aggregate deposits of its savings and loan subsidiaries in savings and loan subsidiaries located in an eligible state or eligible states each of which has reciprocal legislation in effect.

b. It is not the intent of this act, and nothing in this act shall be deemed to permit acquisitions in any form that would result in branching into New Jersey of insured institutions or savings and loan holding companies.

c. Nothing in this act shall be deemed to eliminate, reduce or waive any rights of any savings member, borrowing member or shareholders of the insured institution or savings and loan holding company being acquired pursuant to any applicable law regarding those rights.

d. In the event an eligible insured institution or eligible savings and loan holding company which controls an insured institution or savings and loan holding company or insured institutions or savings and loan holding companies in this State and in one or more eligible states shall cease to be an eligible insured institution or eligible savings and loan holding company (1) as a result of obtaining control of an insured institution or savings and loan holding company or insured institutions or savings and loan holding companies located in a state which is not an eligible state or this State, or (2) as a result of having control of it obtained by an insured institution or savings and loan holding company or insured institutions or savings and loan holding companies which is not an eligible insured institution or eligible savings and loan holding company, the insured institution or savings and loan holding company shall within one year make such divestitures as are necessary to comply with the provisions of this act. The commissioner shall promulgate regulations to provide a procedure for divestiture.

e. Notwithstanding the provisions of this act, an insured institution or savings and loan holding company shall not be required to divest its control of any insured institution or savings and loan hold-

ing company as a result of any subsequent change in, or invalidity of, the laws of this State, another state or the United States or as a result of a state ceasing for any other reason to be an eligible state.

C. 17:12B-280 Acquisitions in other states.

3. a. Notwithstanding the provisions of any law of this State, an insured institution or savings and loan holding company located in this State may acquire an insured institution or savings and loan holding company located in any eligible state other than this State.

b. Nothing in this act or in any other law of this State shall be deemed to prohibit or limit an insured institution or savings and loan holding company located in this State from acquiring an insured institution or savings and loan holding company or insured institutions or savings and loan holding companies located in any jurisdiction other than an eligible state, which acquisition is otherwise permitted by applicable law of the United States or any other state, provided that, if the insured institution or savings and loan holding company becomes an insured institution or savings and loan holding company not located in this State, it shall comply with the provisions of this act if it is to continue to control an insured institution or savings and loan holding company or insured institutions or savings and loan holding companies located in this State.

4. This act shall take effect on the 30th day after enactment but section 2 of this act shall remain inoperative until such time as the commissioner determines that the number of eligible states, as defined in and required by subsection f. of section 1 of this act, has been established.

Approved July 30, 1987.

CHAPTER 227

AN ACT concerning bottled water and supplementing and amending chapter 12 of Title 24 of the Revised Statutes.

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

C. 24:12-8 Definitions.

1. (New section) As used in this act:

“Bottled water” means all noncarbonated water which is sealed

in bottles, packages or other containers and offered for sale for human consumption, including bottled mineral or spring water.

“Local health authority” means the local board of health of any municipality or the board, body or officers in a municipality lawfully exercising any of the powers of the local board of health under the laws governing the municipality, and includes any consolidated board of health or county board of health created and established pursuant to law.

“Plant” means a building or facility, or parts thereof, used for or in conjunction with the manufacturing and bottling of bottled water.

“Product water” means processed water used by a plant for bottled drinking water.

“Source water” means water from a spring, artesian well, drilled well, public water system, public community water system or any other source which is used for or in connection with bottled water.

C. 24:12-9 Drinking water quality standards; labeling.

2. (New section) a. Bottled water which is manufactured, distributed or sold within this State, in addition to complying with the standards governing the manufacturing, storage and distribution of bottled water promulgated by the Department of Health pursuant to R.S. 24:2-1, shall comply with the regulations concerning drinking water quality standards adopted by the Department of Environmental Protection pursuant to the “Safe Drinking Water Act,” P.L. 1977, c. 224 (C. 58:12A-1 et seq.) and shall not be sold more than two years after the date on which it is sealed in its bottle, package, or container.

b. All bottles, packages, or containers of bottled water sold, offered for sale, or bottled in this State shall bear a clear and prominent label indicating the specific location at which the water was obtained, including the address of a water purveyor, artesian or driven well, spring, or other point of origin. This label shall also classify the bottled water as demineralized water, distilled water, purified water, drinking water, light mineral water, mineral water, or spring water and shall contain an expiration date of two years from the date on which the water was bottled.

C. 24:12-10 Periodic testing.

3. (New section) The owner or operator of each plant shall undertake periodic testing of the bottled water to determine the presence of hazardous contaminants as identified pursuant to section 2 of P.L. 1983, c. 443 (C. 58:12A-13). The tests for hazardous contaminants

shall be conducted in accordance with sampling and testing methods and techniques established by the Commissioner of Environmental Protection, the testing to be conducted by a laboratory certified for this purpose by the commissioner. The initial tests for substances identified in subsection a. of section 2 of P.L. 1983, c. 443 (C. 58:12A-13) shall be conducted not later than one year after the effective date of this act and subsequent tests shall be conducted semiannually thereafter, unless the Commissioner of Health shall determine, on a case-by-case basis, that a greater or lesser frequency of testing is necessary or sufficient to ensure the public health and safety.

The initial tests for substances for which maximum contaminant levels have been established pursuant to subsection b. of section 2 of P.L. 1983, c. 443 (C. 58:12A-13) shall be conducted not later than one year after the effective date of this act and subsequent tests shall be conducted annually thereafter, unless the Commissioner of Health shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary or sufficient to ensure the public health and safety.

C. 24:12-11 Potability test results to Department of Health.

4. (New section) Any plant owner or operator shall forward to the Department of Health a copy of all results of tests required to be conducted pursuant to this act. The certified laboratory conducting the potability tests may, upon written approval by the department, submit the test results on behalf of the plant owner or operator. The department is authorized to conduct or cause to be conducted spot checks to assure compliance with this act and the accuracy and integrity of the reported results.

C. 24:12-12 Procedures; rules, regulations.

5. (New section) The Commissioner of Health shall within six months of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt and implement adequate procedures and promulgate rules and regulations necessary to implement the provisions of this act. The rules and regulations shall include but need not be limited to provisions concerning: (1) monitoring, sampling and inspection procedures for source and product and bottled water; (2) the maintenance and retention of records of information from monitoring and sampling activities; (3) the submission to the Department of Health of monitoring and sampling reports; and (4) the provision of other information as the Commissioner of Health may require to determine

compliance or noncompliance with this act or with the rules and regulations promulgated pursuant thereto, or to otherwise implement the provisions of this act.

C. 24:12-13 Powers of commissioner.

6. (New section) The Commissioner of Health is authorized to:

a. Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as the commissioner deems appropriate, with the Department of Environmental Protection and other State agencies, federal agencies, municipalities, counties, educational institutions, local health authorities, or other organizations or individuals; and

b. Establish and collect fees, in accordance with a fee schedule adopted as a rule or regulation, for conducting inspections and laboratory analyses and certifications as may be necessary, and to delegate the authority to collect fees pursuant to this subsection to the appropriate local health authority consistent with a delegation of any authority to administer the provisions of this act.

C. 24:12-14 Violations; penalties.

7. (New section) a. The Commissioner of Health, upon receipt of information that a contaminant which is present in bottled water may present an imminent and substantial endangerment to the public health and safety, may take any action deemed necessary to protect the public health and safety. The actions may include, but need not be limited to: (1) issuing such orders as may be necessary to protect consumers of the bottled water; and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

The Department of Health may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent a violation of the provisions of this act or any rule or regulation adopted, or order issued, pursuant thereto, and the court may proceed in the action in a summary manner.

b. Any person who sells or manufactures or who has in his possession with intent to sell in this State any bottled water in violation of this act or any rule, regulation or order adopted or issued pursuant to this act, shall be liable to a civil administrative penalty of not more than \$5,000.00 for the first offense, nor more than \$10,000.00 for the second offense, and up to \$25,000.00 for the third and each subsequent offense. A person selling bottled water at retail shall be liable for these civil administrative penalties only upon a failure to

obey an order issued by the Department of Health to remove any bottled water manufactured, sold, or offered for sale in violation of this act. If the violation is of a continuing nature, each day during which it continues subsequent to receipt of an order to cease the violation shall constitute an additional, separate and distinct offense. No civil administrative penalty shall be levied, except subsequent to the notification of violation by certified mail or personal service. The notice shall include a reference to the section of the law, rule, 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 person's right to a hearing. The person shall have 20 days from receipt of the notice within which to deliver to the Commissioner of Health a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has occurred, the Commissioner of Health 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 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 of 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 violations for which the penalty is levied.

c. The Department of Health is authorized 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 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. or c. of this section shall be 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. A person selling bottled water at retail shall be subject to a civil penalty only upon a failure to obey an order issued by the Department of Health to remove any bottled water manufactured, sold, or offered for sale in violation of this act. 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."

8. R.S. 24:12-5 is amended to read as follows:

Licensing of wholesale bottlers; fees.

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, except that this fee shall not be charged to a person who pays a fee pursuant to section 6 of P.L. 1987, c. 227 (C. 24:12-13).

9. This act shall take effect immediately.

Approved July 30, 1987.

CHAPTER 228

AN ACT concerning the possession and sale of ballistic and certain other knives, amending N.J.S. 2C:39-1, N.J.S. 2C:39-3 and N.J.S. 2C:39-9, and supplementing chapter 39 of Title 2C of the New Jersey Statutes.

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

1. N.J.S. 2C:39-1 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.

u. "Ballistic knife" means any weapon or other device capable of lethal use and which can propel a knife blade.

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, ballistic knife, without any explainable lawful purpose, is guilty of a crime of the fourth degree.

f. Dum-dum or body armor penetrating bullets. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to subsection f. of N.J.S. 2C:39-6, who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in Title 18, United States Code, section 921(a)(13) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco and Firearms, who knowingly has in his possession any body armor breaching or penetrating ammunition, which means: (a) ammunition primarily designed for use in a handgun, and (b) which is comprised of a bullet whose core or jacket, if the jacket is thicker than .025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and (c) is therefore capable of breaching or penetrating body armor, is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive

variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1) Nothing in subsection a., b., c., d., e., 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. N.J.S. 2C:39-9 is amended to read as follows:

Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.

2C:39-9. Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances. a. Machine guns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any machine gun without being registered or licensed to do so as provided in chapter 58 is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any sawed-off shotgun is guilty of a crime of the third degree.

c. Firearm silencers. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any firearm silencer is guilty of a crime of the fourth degree.

d. Weapons. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon, including gravity knives, switchblade knives, ballistic knives, daggers, dirks, stilettos, billies, blackjacks, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings, or in the case of firearms if he is not licensed or registered to do so as provided in chapter 58, is guilty of a crime of the fourth degree. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon or other device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air, which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel or the device is for the purpose of personal self-defense, is pocket-sized and contains not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, or other than to be used by any person per-

mitted to possess such weapon or device under the provisions of subsection d. of N.J.S. 2C:39-5, which is intended for use by financial and other business institutions as part of an integrated security system, placed at fixed locations, for the protection of money and property, by the duly authorized personnel of those institutions, is guilty of a crime of the fourth degree.

e. Defaced firearms. Any person who defaces any firearm is guilty of a crime of the third degree. Any person who knowingly buys, receives, disposes of or conceals a defaced firearm, except an antique firearm, is guilty of a crime of the fourth degree.

f. (1) Any person who manufactures, causes to be manufactured, transports, ships, sells, or disposes of any bullet, which is primarily designed for use in a handgun, and which is comprised of a bullet whose core or jacket, if the jacket is thicker than .025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and is therefore capable of breaching or penetrating body armor and which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel, is guilty of a crime of the fourth degree.

(2) Nothing in this subsection shall be construed to prevent a licensed collector of ammunition as defined in paragraph (2) of subsection f. of N.J.S. 2C:39-3 from transporting the bullets defined in paragraph (1) of this subsection from (a) any licensed retail or wholesale firearms dealer's place of business to the collector's dwelling, premises, or other land owned or possessed by him, or (b) to or from the collector's dwelling, premises or other land owned or possessed by him to any gun show for the purposes of display, sale, trade, or transfer between collectors, or (c) to or from the collector's dwelling, premises or other land owned or possessed by him to any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice; provided that the club has filed a copy of its charter with the superintendent of the State Police and annually submits a list of its members to the superintendent, and provided further that the ammunition being transported shall be carried not loaded in any firearm and contained in a closed and fastened case, gunbox, 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.

C. 2C:39-9.1 Sales of knives to minors.

4. (New section) A person who sells any hunting, fishing, combat or survival knife having a blade length of five inches or more or an overall length of 10 inches or more to a person under 18 years of age commits a crime of the fourth degree; except that the establishment by a preponderance of the evidence of all of the following facts by a person making the sale shall constitute an affirmative defense to any prosecution therefor: a. that the purchaser falsely represented his age 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 by producing a similar card purporting to be a valid identification card indicating that he was 18 years of age or older, and b. that the appearance of the purchaser was such that an ordinary prudent person would believe him to be 18 years of age or older, and c. that the sale was made in good faith relying upon the indicators of age listed in a. and b. above.

5. This act shall take effect immediately.

Approved July 30, 1987.

CHAPTER 229

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID	
22 DEPARTMENT OF COMMUNITY AFFAIRS	
50 Economic Planning, Development and Security	
55 Related Social Services Programs—State Aid	
08-8060 Programs for the Aging	\$325,000

State Aid:

Grant to Dover township for
construction of Senior Citizens'
Center (\$325,000)

2. This act shall take effect immediately.

Approved July 30, 1987.

CHAPTER 230

AN ACT concerning secondary mortgage loans and revising parts of statutory law.

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

1. Section 2 of P.L. 1970, c. 205 (C. 17:11A-35) is amended to read as follows:

C. 17:11A-35 Definitions.

2. As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

a. "Secondary mortgage loan" means a closed-end loan or open-end loan made to an individual, association, joint venture, partnership, limited 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 on which there is erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, except that a loan which: (1) is to be repaid in 90 days or less; (2) 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.); (3) (Deleted by amendment, P.L. 1987, c. 230); or (4) 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 subject to the provisions of this act.

b. "Borrower" means any person applying for a secondary mortgage loan, whether or not the loan is granted, and any person who has actually obtained such a loan.

c. "Licensee" means a person who is required to be licensed by section 3 of this act.

d. "Person" means an individual, association, joint venture, partnership, limited partnership, limited partnership association, corporation or any other group of individuals however organized.

e. "Commissioner" means the Commissioner of Banking of New Jersey including the commissioner's deputies, or any other salaried employee of the Department of Banking appointed or designated by the commissioner to perform the functions required for the administration or enforcement of this act.

f. "Billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from that date.

g. "Open-end loan" means a secondary mortgage loan made by a licensee pursuant to a written agreement between the licensee and the borrower whereby:

(1) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(2) The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

(3) Interest is computed on the unpaid principal balance or balances of the account from time to time;

(4) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement; and

(5) The agreement expressly states that the open-end loan is made pursuant to P.L. 1983, c. 437 (C. 17:11A-44.1 et al.).

h. "Closed-end loan" means a secondary mortgage loan pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time, except that: (1) the amount of the final installment payment may be substantially greater than the previous installments if the term of the loan is at least 36 months, or under 36 months if the remaining term of the first mortgage loan is under 36 months; or (2) the amounts of the installments may vary as a result of the change in the interest rate pursuant to subsection b. of section 19 of P.L. 1987, c. 230 (C. 17:11A-44.7).

i. "Prudent loan" means a secondary mortgage loan which is prudent by acceptable banking standards and is in compliance with all of the provisions of P.L. 1970, c. 205 (C. 17:11A-34 et seq.) and regulations promulgated thereunder.

2. Section 3 of P.L. 1970, c. 205 (C. 17:11A-36) is amended to read as follows:

C. 17:11A-36 Secondary mortgage loan license.

3. a. No person shall engage in the secondary mortgage loan business in this State unless such person shall first obtain a license under this act. For the purpose of this act, a person is deemed to be engaged in the secondary mortgage loan business in this State if: (a) such person advertises, causes to be advertised, solicits, negotiates, offers to make or makes a secondary mortgage loan in this State, whether directly or by any person acting for his benefit; or (b) such person becomes the subsequent holder of a promissory note or mortgage, indenture or any other similar instrument or document received in connection with a secondary mortgage loan. A real estate broker licensed pursuant to the provisions of the law of this State or an attorney authorized to practice law in this State shall not be required to obtain a license to negotiate a secondary mortgage loan in the normal course of the business of a real estate broker or attorney.

b. No corporation, partnership, association or other entity, other than an individual, shall obtain a license unless at least one officer, partner, member or other principal is licensed under the "Secondary Mortgage Loan Act," P.L. 1970, c. 205 (C. 17:11A-34 et seq.).

3. Section 4 of P.L. 1970, c. 205 (C. 17:11A-37) is amended to read as follows:

C. 17:11A-37 Application; liquid asset, net worth requirements.

4. a. An application for a secondary mortgage loan license shall be on a form provided by the commissioner. The application shall set forth the name and resident address of the applicant and, if the applicant is other than an individual or corporation, of each partner or member, and if the applicant is a corporation, of each officer, director and the registered agent. The application shall also set forth the address or addresses where the secondary mortgage loan business is to be conducted in this State.

b. The application shall demonstrate that the applicant has liquid assets of at least \$100,000.00 available for the purpose of making secondary mortgage loans and a net worth of at least \$100,000.00, except that, in the case of the application of an officer, partner, member or other principal of a corporation, partnership, association or other entity, that individual shall not be required to demonstrate that the individual has liquid assets and a net worth of at least \$100,000.00.

In the case of an entity other than a corporation, the commissioner may promulgate regulations as he deems necessary to insure that the liquid asset and net worth requirements of this subsection are maintained by at least one individual licensee of that entity upon dissolution or other disposition affecting liquid assets or net worth.

c. The application shall contain such other information as the commissioner shall require in order to carry out the purposes of this act.

d. If the applicant intends to conduct business under a name other than its legal name, the applicant shall furnish the certificates required by the law of this State with the application.

e. If the applicant is a foreign corporation, said corporation shall be authorized to do business in this State in accordance with the law of this State regulating corporations.

f. Applicants for a secondary mortgage loan license shall file with the application an irrevocable consent, duly acknowledged, that suits and actions may be commenced against such licensee in the courts of this State by the service of process or any pleading upon the commissioner, in the usual manner provided for service of process and pleadings by the statutes and Rules Governing the Courts of the State of New Jersey. Said consent shall provide that such service shall be as valid and binding as if service had been made personally upon the licensee in this State. In all cases where process or pleadings

are served upon the commissioner pursuant to the provisions of this section, such process or pleadings shall be served in duplicate, one of which shall be filed in the office of the commissioner and the other shall be forwarded by the commissioner, by certified or registered mail, return receipt, to the last known principal place of business of the licensee to whom such process or pleadings is directed.

C. 17:11A-45.1 Examination; waivers.

4. (New section) a. An applicant shall qualify by examination approved by the commissioner, which examination may be written or oral or both, and shall include a general knowledge of the laws of this State concerning secondary mortgage loans, real property, conveyances, mortgages, and agreements of sale. The commissioner may designate an independent testing service to prepare and administer the examinations.

b. The examination requirement of this section may be waived by the commissioner for a person applying for a secondary mortgage lender's license who can demonstrate to the satisfaction of the commissioner that he has, for a period of at least two years prior to the filing of the application, been principally engaged in the business of secondary mortgage lending in this State and who submits a written request to the commissioner for his approval. The commissioner may waive the examination requirement for a secondary mortgage lender's license for a person who has, prior to the filing of the application, been in business for less than two years and who can demonstrate to the commissioner that he is otherwise qualified for a license without the need for an examination.

C. 17:11A-39.1 License denial, revocation, suspension, nonrenewal.

5. (New section) a. The commissioner may refuse to issue and may revoke, suspend or refuse to renew a license or impose a penalty pursuant to the "Secondary Mortgage Loan Act," P.L. 1970, c. 205 (C. 17:11A-34 et seq.) if he finds, after notice and an opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), that any person, applicant for, or holder of a license has:

(1) Violated any of the provisions of the "Secondary Mortgage Loan Act," P.L. 1970, c. 205 (C. 17:11A-34 et seq.) or any order, rule or regulation made or issued pursuant to that act;

(2) Withheld information or made a material misstatement in the application for the license;

(3) Been convicted of an offense involving breach of trust, moral

turpitude or fraudulent or dishonest dealing, or had a final judgment entered against him in a civil action upon grounds of fraud, misrepresentation or deceit;

(4) Become insolvent or bankrupt, or has filed a petition in an insolvency or bankruptcy proceeding;

(5) Demonstrated unworthiness, incompetence, bad faith or dishonesty in the transacting of business as a secondary mortgage lender; or

(6) Engaged in any other conduct which is deemed by the commissioner to be sufficient cause for denial of a license.

b. The license of a corporation, partnership, association or other entity may be suspended or revoked if an officer, director, partner, member or other principal of the licensee has committed any act which would be cause for suspending or revoking a license to him as an individual. If the license issued to a partner, or to a member of an association or a director or an officer of a corporation, is revoked or suspended, the license issued to the partnership, association or corporation shall be revoked by the commissioner, unless within a period to be fixed by the commissioner, in the case of a partnership, the connection therewith of the partner whose license has been revoked shall be severed and his interest in the partnership and his share in its activities brought to an end, or in the case of an association or corporation, the offending member, director or officer shall be discharged and shall have no further participation in its activity. An officer or director of the corporation who has had his license revoked or suspended shall fully divest himself of all stock, bonds or other holdings in the corporation.

C. 17:11A-45.2 Principal place of business; branch offices.

6. (New section) A licensee shall maintain a principal place of business in the State for the transaction of business. A license shall specify the address of the place of business of the licensee and shall be conspicuously displayed therein. If a licensee maintains more than one place of business, one shall be designated as the principal place of business. If, upon application, a licensee demonstrates that an additional office is in a suitable location and certifies that the office is covered by the bond required, the commissioner shall issue a branch office license, specifying the address of the branch office, which license shall be conspicuously displayed therein. In case the address of the principal place of business or of any branch office is changed, the commissioner shall endorse the change of address by issuing a certificate of endorsement.

C. 17:11A-45.3 Bond requirement.

7. (New section) A licensee, prior to doing business, shall obtain a bond in an amount and in a form prescribed by the commissioner by regulation, which amount shall be not less than \$25,000.00. The bond shall be obtained from a surety company authorized by law to do business in this State. The bond shall run to the State for its benefit and for the benefit of any person injured by the wrongful act, omission, default, fraud or misrepresentation of the licensee. No bond shall comply with the requirements of this section unless the bond contains a provision that it shall not be cancelled for any cause unless notice of intention to cancel is filed in the Department of Banking at least 30 days before the day upon which cancellation shall take effect.

8. Section 9 of P.L. 1970, c. 205 (C. 17:11A-42) is amended to read as follows:

C. 17:11A-42 2-year licenses; invalidity of corporate licenses.

9. A license issued by the commissioner shall:

a. Expire on December 31 of the second year within a biennial license period. No refund in the amount of the license fee shall be made if the license is issued for less than 12 months or if the license is voluntarily surrendered to or suspended or revoked by the commissioner prior to its expiration date, or the licensee's business as a secondary mortgage lender is terminated.

b. Be invalid, in the event the licensee is a corporation, if the licensee's corporate charter is voided in accordance with the provisions of any law of this or any other state or if the licensee has failed to pay any taxes imposed by this State which have been due and unpaid for a period in excess of 12 months if the commissioner has notified the licensee of the pending invalidity and granted the licensee a reasonable opportunity to correct that failure.

9. Section 12 of P.L. 1970, c. 205 (C. 17:11A-45) is amended to read as follows:

C. 17:11A-45 Requirements of licensee.

12. A secondary mortgage loan licensee shall:

a. (Deleted by amendment, P.L. 1987, c. 230.)

b. (Deleted by amendment, P.L. 1987, c. 230.)

c. (Deleted by amendment, P.L. 1987, c. 230.)

d. Maintain a net worth of \$100,000.00 at all times; except that

licensees licensed prior to March 31, 1981 shall maintain a net worth of \$50,000.00, until five years from the effective date of this 1987 amendatory and supplementary act, at which time the licensee shall be required to prove and maintain at all times a net worth of at least \$100,000.00.

e. Maintain at his place of business in this State an original, true, xerographic or electronic copy of the following instruments, documents, accounts, books and records:

(1) Promissory note or loan agreement evidencing each borrower's secondary mortgage loan indebtedness.

(2) Mortgage, indenture or any other similar instrument or document which creates a lien on the real property which is taken as security for a secondary mortgage loan.

(3) Any insurance policies or certificates of insurance where such insurance is obtained in accordance with section 2 of P.L. 1983, c. 348 (C. 17:11A-49.1).

(4) Closing statement for each secondary mortgage loan.

(5) Appraisal, survey, title examination, title insurance policy, abstract of title, credit report or search, where utilized.

(6) Individual ledger card or any other form of record which shows all installment payments made by the borrower and all other charges or credits to the borrower's account.

(7) Individual file in which the borrower's application for a loan and any correspondence, including collection letters, memorandums, notes or any other written information pertaining to the borrower's account, shall be kept.

(8) Accounts, books and records as shall be required by the commissioner in order to ascertain whether the licensee has been conducting his secondary mortgage loan business in full compliance with the provisions of this act.

All of the aforementioned instruments, documents, accounts, books and records shall be preserved and kept available for investigation or examination by the commissioner for at least two years after a secondary mortgage loan has been paid in full. The provisions of this section shall not apply to any instrument, document, account, book or record which is assigned, sold or transferred to another secondary mortgage loan licensee nor shall the two-year requirement

apply to an instrument or document which must be returned to the borrower at the time a secondary mortgage loan is paid in full.

f. Annually, before February 1, file a report with the commissioner which shall set forth such information as the commissioner shall require concerning the business conducted as a licensee during the preceding calendar year. The report shall be in writing, under oath and on a form provided by the commissioner.

g. Be subject to an examination by the commissioner, not more than once in any 18 month period, unless the commissioner has reason to believe that the licensee is not complying with the provisions of P.L. 1970, c. 205 (C. 17:11A-34 et seq.) or any rule or regulation promulgated thereunder, at which time the commissioner shall have free access, during regular business hours, to the licensee's place or places of business in this State and to all instruments, documents, accounts, books and records which pertain to the licensee's secondary mortgage loan business. The cost of any such examination shall be borne by the licensee.

h. In the event a borrower's application for a secondary mortgage loan is denied, notify the borrower, in writing, of said denial and, provided further, the name of any such borrower or a list of any such borrowers shall not be referred by the licensee, in any manner whatsoever, to any other lender, retail seller of personal property or services or to any other person, whether in this or any other state.

i. If a secondary mortgage loan is not consummated, return all documents executed by or belonging to the borrower.

j. Give to the borrower, without charge, a copy of every instrument, document or other writing the borrower signs.

k. Give to the borrower, without charge, written evidence of any insurance obtained in accordance with section 16 of P.L. 1970, c. 205 (C. 17:11A-49).

l. Give to the borrower, without charge, at the time a closed-end loan is made, and at the time of the first advance on an open-end loan, a closing statement which itemizes the individual amounts disbursed to or on behalf of the borrower, including, but not limited to, the premium for insurance, if any, the total amount of the funds so disbursed, the amount of the interest charge, total amount of the loan, the amount, number and due date of the installment payments and the interest charge expressed as an annual percentage rate, as applicable.

m. When a payment is made in cash on an account of a secondary mortgage loan, give to the borrower, without charge, at the time such payment is actually received, a written receipt which shall show the name and address of the licensee, the name and address of the borrower, account number or other identification mark or symbol, date and amount paid.

n. With respect to closed-end loans, upon written request from the borrower, give or forward to the borrower, without charge, within five days from the date of receipt of such request, a written statement of the borrower's account which shall show the dates and amounts of all installment payments credited to the borrower's account, the dates, amounts and an explanation of all other charges or credits to the account and the unpaid balance thereof. A licensee shall not be required to furnish more than two such statements in any 12-month period.

o. When a closed-end loan is paid in full, or when an open-end loan is paid in full and the borrower has notified the licensee in writing to discontinue his account with the licensee:

(1) Refund or credit to the borrower, in accordance with regulations promulgated by the Commissioner of Insurance, any unearned portion of the premium for any insurance, if a premium for such insurance was disbursed on behalf of the borrower at the time the secondary mortgage loan was originally made.

(2) Stamp or write on the face of the promissory note or loan agreement evidencing the borrower's secondary mortgage loan indebtedness "Paid in Full" or "Cancelled," the date paid and the name and address of the licensee and, within 45 days, return the promissory note or loan agreement to the borrower.

(3) Release, at the expense of the licensee, any lien on real property and cancel the same of record and, at the time the promissory note or loan agreement evidencing the borrower's secondary mortgage loan indebtedness is returned, deliver to the borrower such good and sufficient assignments, releases or any other certificate, instrument or document as may be necessary to vest the borrower with complete evidence of title, insofar as the applicable secondary mortgage loan is concerned, to the real property, except that the licensee may require the borrower to pay any charge imposed upon the licensee by a county recording officer to effect the cancellation or release.

10. Section 13 of P.L. 1970, c. 205 (C. 17:11A-46) is amended to read as follows:

C. 17:11A-46 Prohibitions.

13. A secondary mortgage loan licensee shall not:

a. Transact any business subject to the provisions of this act under any other name or at any other location except that designated in his license. For the purpose of this section, the transaction of business includes, but is not limited to, the signing of any instrument, document or any other form by the borrower, except that a borrower's application for a secondary mortgage loan need not be signed in the office of the licensee. A licensee who changes his name or place of business shall immediately notify the commissioner who shall issue a certificate to the licensee, which shall specify the licensee's new name or address.

b. Photocopy or otherwise reproduce his license.

c. Request that a borrower incorporate in connection with a secondary mortgage loan or aid or abet such a scheme.

d. Make a secondary mortgage loan which has been referred by a retail seller, who, in connection with such referral, has required the borrower to purchase personal property or services or has indicated that such purchase is necessary as a condition precedent for such loan.

e. Charge an application fee or make any other charge or accept an advance deposit prior to the time a secondary mortgage loan is closed.

f. Require or accept from a borrower any collateral or security for a secondary mortgage loan other than a mortgage, indenture or any other similar instrument or document which creates a lien upon any real property or an interest in real property including, but not limited to, shares of stock in a cooperative corporation.

g. Contract for, charge, receive or collect directly or indirectly, any of the following in connection with a secondary mortgage loan: a broker's or finder's fee; commission; discount; expense; fine; penalty; points; premium, or any other thing of value other than the charges authorized by this act; except the expenses incurred on actual sale of the real property in foreclosure proceedings or upon the entry of judgment, which are otherwise authorized by law; provided, however, a licensee may require a borrower to pay a reasonable legal fee at the time of the execution of the secondary mortgage

loan, provided any such legal fee shall represent a charge actually incurred in connection with said secondary mortgage loan and shall not be paid to a person except an attorney authorized to practice law in this State; provided, further, that such legal fee shall be evidenced by a statement from such attorney issued to the licensee.

h. Assign, sell or transfer a secondary mortgage loan to a person other than a banking institution as defined in section 1 of P.L. 1948, c. 67 (C. 17:9A-1), association, as defined in section 5 of P.L. 1963, c. 144 (C. 17:12B-5), or another secondary mortgage loan licensee, the Federal National Mortgage Association created pursuant to section 302 of the National Housing Act, 48 Stat. 1246 (17 U.S.C. §1717), the Federal Home Loan Mortgage Corporation created pursuant to section 303 of the "Federal Home Loan Mortgage Corporation Act," Pub.L. 91-351 (17 U.S.C. §1452), or other persons or entities as from time to time approved by the commissioner to facilitate and assure the steady flow of secondary mortgage funds into the State. Notwithstanding any other provisions of this act, such persons or entities need not be licensed under the act to purchase or accept such an assignment or transfer of a secondary mortgage loan.

i. Solicit business through any other person by paying, directly or indirectly, for such business referred to the licensee by any such person, except as described in subsection j. of this section.

j. Solicit business, directly or indirectly, for any other licensee, lender, retail seller of personal property or services or for any other person, whether in this or any other state, except that a licensee may solicit on behalf of another licensee or lender expressly authorized to make secondary mortgage loans in this State if (1) such solicitation results in no additional cost or expense to the borrower; and (2) the application and all advertising in connection therewith clearly disclose the identity of the person or entity which will be making the loan. If those conditions are met, a licensee may collect a fee or a commission from the lender as consideration for the solicitation.

k. Advertise, cause to be advertised or otherwise solicit whether orally, in writing, by telecast, by broadcast or in any other manner:

(1) That he is licensed by, or that his business is under the supervision of, the State of New Jersey or the Department of Banking, except that a licensee may advertise that he is "licensed pursuant to the Secondary Mortgage Loan Act"; provided, however, that for the purpose of raising capital, no such advertisement shall

be permitted if it is to be used in connection with a public solicitation for such funds.

(2) Any name, address or telephone number other than the licensee's own name, address and telephone number in this State.

(3) The word "bank" or any term inferring that the licensee is or is associated with a bank.

(4) The amount of the interest to be charged, unless such charge is also expressed as an annual percentage rate.

(5) Any statement or representation which is false, misleading or deceptive and, provided further, a written or other visual advertisement shall include the licensee's name, address and telephone number in this State and the phrase "Secondary Mortgage Loans" in 10-point bold type or larger.

(6) Any statement or representation that the licensee will provide "immediate approval" of a loan application or "immediate closing" of a loan or will afford unqualified access to credit.

l. Make or offer to make any secondary mortgage loan which would not be a prudent loan.

11. Section 16 of P.L. 1970, c. 205 (C. 17:11A-49) is amended to read as follows:

C. 17:11A-49 Ban on mandatory insurance.

16. a. A borrower shall not be compelled to purchase credit life or accident and health insurance in connection with a secondary mortgage loan. If, however, the borrower elects to obtain such insurance, the borrower or borrowers shall, in a separate instrument, consent thereto, in writing, and, provided further:

(1) The insurance shall be obtained in accordance with the provisions of N.J.S. 17B:29-4, and the regulations promulgated by the Commissioner of Insurance pursuant thereto.

(2) The premium for any such insurance shall be deducted from the amount of the secondary mortgage loan requested by the borrower in the case of a closed-end loan or charged monthly in the case of an open-end loan.

b. Notwithstanding any provisions of P.L. 1970, c. 205 (C. 17:11A-34 et seq.) to the contrary, a licensee may require a borrower to demonstrate that the real property securing the loan is insured against damage or loss due to fire and other perils, including those

of extended coverage, for a term not to exceed the term of the loan and in an amount not to exceed the amount of the loan together with an amount needed to satisfy all prior liens on that property.

c. Nothing in this act or in any other law of this State shall prohibit a licensee or any employee, affiliate, subsidiary, or associate of said licensee, from collecting the premium or identifiable charge for insurance permitted by this act and from receiving or retaining any dividend, or any other gain or advantage resulting from such insurance; subject, however, to the authority of the commissioner to promulgate such rules and regulations with regard to such dividend, gain or advantage as he may deem necessary.

12. Section 2 of P.L. 1983, c. 348 (C. 17:11A-49.1) is amended to read as follows:

C. 17:11A-49.1 Property insurance.

2. A licensee under P.L. 1970, c. 205 (C. 17:11A-34 et seq.) may make available insurance covering direct or indirect damage or loss, by fire or other perils, including those of extended coverage, to the property of the borrower all or part of which is the security for the loan, which insurance shall be for a term not to exceed the term of the loan and in an amount not to exceed the amount of the loan together with an amount needed to satisfy all prior liens on such property.

The licensee shall provide the borrower with the following written statement, to be printed in at least 10-point bold type:

NOTICE TO THE BORROWER

YOU MAY BE REQUIRED TO PURCHASE PROPERTY INSURANCE AS A CONDITION OF RECEIVING THE LOAN.

IF PROPERTY INSURANCE IS REQUIRED, YOU MAY SECURE INSURANCE FROM A COMPANY OR AGENT OF YOUR OWN CHOOSING.

13. Section 18 of P.L. 1970, c. 205 (C. 17:11A-51) is amended to read as follows:

C. 17:11A-51 Form of loan instruments.

18. An instrument evidencing a secondary mortgage loan shall:

a. Be in the form of a promissory note for a closed-end loan and in the form of a loan agreement for an open-end loan which shall be identifiable by the use of the words "Secondary Mortgage Loan"

printed prominently, in 14-point bold type or larger, centered and at the top of the promissory note or loan agreement and, directly underneath, in eight-point bold type or larger, the statement, "This promissory note is subject to the provisions of the 'Secondary Mortgage Loan Act.' "

b. Provide for the payment, in full, of the total amount of the secondary mortgage loan in substantially equal payment periods, measured in terms of weeks or months, and, except as otherwise permitted, substantially equal installment payment amounts, except that the initial payment period may be deferred for 60 days, and, provided further, when appropriate for the purpose of facilitating payment in accordance with the borrower's intermittent income, a promissory note or loan agreement may provide an installment schedule which reduces or omits payments over any period or periods of time during which period or periods the borrower's income is reduced or suspended, and the final installment may be \$1.00 more or less than the amount of all other regular installment payments.

c. Contain the following notice printed prominently, in the identical form indicated below, in 10-point bold type or larger, directly above the space provided for the signature of the borrower.

"NOTICE TO BORROWER

Read this promissory note or loan agreement before you sign.

Do not sign this promissory note or loan agreement if it contains blank spaces.

This promissory note or loan agreement is secured by a secondary mortgage on your real property."

d. Be completed in full before it is signed by the borrower. In the event that it is unnecessary to fill in a blank space provided for in any instrument, the figure -0-, a dash, line or the word "none" shall be inserted in such blank space.

14. Section 19 of P.L. 1970, c. 205 (C. 17:11A-52) is amended to read as follows:

C. 17:11A-52 Prohibited written agreements.

19. No writing of any kind executed in connection with a secondary mortgage loan shall contain:

a. An agreement whereby the borrower waives any rights accruing to him under the provisions of this act or any other law of this State.

b. A power of attorney to confess judgment or any other power of attorney.

c. An assignment of or order for the payment of any salary, wages, commissions or any other compensation for services, or any part thereof, earned or to be earned.

d. An agreement to pay any amount other than the unpaid balance of the promissory note or loan agreement or any other charge authorized by this act.

e. A provision relieving the licensee from liability for any claim, or from any legal remedy, which the borrower may have against said licensee under the terms of the promissory note or loan agreement.

f. A provision whereby the borrower waives any right of action against the licensee, a subsequent holder or any person acting on the licensee's or holder's behalf for any illegal act committed in the collection of payments under the promissory note or loan agreement.

g. An acceleration clause under which the unpaid balance of the promissory note or loan agreement not yet matured or any part thereof may be declared due and payable because the licensee or subsequent holder deems himself to be insecure.

15. Section 20 of P.L. 1970, c. 205 (C. 17:11A-53) is amended to read as follows:

C. 17:11A-53 Attorney fees.

20. A promissory note or loan agreement may provide for the payment of attorney fees in the event it becomes necessary to refer the promissory note or loan agreement to an attorney for collection; provided, however, that any such provision shall be void and unenforceable unless:

a. The promissory note or loan agreement is referred to an attorney authorized to practice law in this State.

b. The attorney to whom the promissory note or loan agreement is referred is not a partner, officer, director or employee, whether salaried or commissioned, of the licensee.

c. Suit is actually filed by the attorney to whom the promissory note or loan agreement is referred and subsequently decided in favor of the licensee, in which event such attorney fees shall not exceed 15% of the first \$500.00, 10% of the next \$500.00 and 5% of any excess amount due and owing under the promissory note or loan agreement and, provided further that at least 15 days prior to the commence-

ment of the suit, the licensee or his attorney shall send to the borrower, by certified or registered mail, return receipt, at his last known address, a statement of his intention to sue, which statement shall also specify the amount of principal, interest and any other charge due and owing to the licensee.

d. In any proceeding to satisfy a judgment by the sale of the real property securing a secondary mortgage loan, a credit for the fair market value of such property shall be afforded to the borrower.

16. Section 24 of P.L. 1970, c. 205 (C. 17:11A-57) is amended to read as follows:

C. 17:11A-57 Loans subject to act.

24. The provisions of this act shall apply to any secondary mortgage loan:

a. Advertised, caused to be advertised, solicited, negotiated, offered, or otherwise transacted within this State, in whole or in part, whether by the ultimate lender or any other person; or

b. Made or executed within this State; or

c. Notwithstanding the place of execution, which is secured by real property located in this State.

17. Section 26 of P.L. 1970, c. 205 (C. 17:11A-59) is amended to read as follows:

C. 17:11A-59 Violations; penalties.

26. a. Any person who engages in the secondary mortgage loan business in this State without having first obtained a license as required by section 3 of this act shall be liable for a penalty of not more than \$3,000.00 for each offense. For the purpose of this subsection, each loan made without a license shall constitute a separate offense.

b. Any person, including any licensee or any partner, officer, director or employee, whether salaried or commissioned, of such licensee, or any other person representing a licensee, whether directly or indirectly, who violates any provision of this act or any rule or regulation promulgated in connection therewith, shall be liable for a penalty, in addition to all other penalties or forfeitures imposed by this or any other law, of not more than \$3,000.00 for each offense. Any person who shall aid or abet such a violation shall be equally liable for such a penalty as may be imposed upon a principal violator. For the purpose of this subsection, a violation of any section of this act or any rule or regulation promulgated by the commissioner

pursuant thereto shall constitute a separate offense. The commissioner, in his discretion, is hereby authorized and empowered to compromise and settle any claim for a penalty under this subsection for an amount that appears appropriate and equitable under all of the circumstances. The liability arising under this subsection for making or offering to make a secondary mortgage loan which is not a prudent loan in violation of subsection l. of section 13 of P.L. 1970, c. 205 (C. 17:11A-46) shall not attach until the commissioner has ordered the licensee, in writing, to cease the violation and the licensee has failed to comply with the order.

c. The penalties provided for in this section, if not voluntarily paid to the commissioner, shall be collected in a civil action brought in the name of the commissioner pursuant to the provisions of "the penalty enforcement law," N.J.S. 2A:58-1 et seq.

18. Section 5 of P.L. 1970, c. 205 (C. 17:11A-38) is amended to read as follows:

C. 17:11A-38 License fees.

5. a. An applicant shall pay to the commissioner at the time the application is filed, and biennially thereafter upon renewal, a license fee for his principal place of business and for each branch office in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed \$1,000.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the licensing fee for the biennial licensing period.

b. An individual applicant filing as an officer, partner, member or other principal of a corporation, partnership, association or other entity as set forth in subsection b. of section 3 of P.L. 1970, c. 205 (C. 17:11A-36) shall pay to the commissioner at the time the application is filed, and biennially thereafter upon renewal, a license fee. The commissioner shall charge for a license a fee as he shall prescribe by rule or regulation. Each fee shall not exceed \$1,200.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the licensing fee for the biennial licensing period. In addition, an individual applicant shall pay a fee of \$200.00 to the commissioner at the time the application is filed.

C. 17:11A-44.7 Closed-end loans.

19. (New section) a. Notwithstanding the provisions of R.S. 31:1-1 or any other law to the contrary, a licensee shall have authority to make closed-end loans, and may charge, contract for and receive thereon interest at an annual percentage rate agreed to by the licensee and the borrower.

b. The note evidencing a closed-end loan may provide for a variation in the rate of interest in which adjustments to the interest rate shall correspond directly to the movement of an interest rate index which is readily available to and verifiable by the borrower and is beyond the control of the lender. If the note provides for a variation in the rate of interest, that fact shall be clearly described in plain language, in at least eight-point boldface type on the face of the note. If the note provides for a final payment which is substantially greater than the previous installments, that fact, together with a statement that the lender is under no obligation to refinance the loan, unless the lender unconditionally obligates itself to do so, shall be clearly disclosed in plain language, in at least eight-point boldface type on the face of the note. No rate increase or decrease shall take effect during the first 12 months of the term of the loan. Thereafter, no rate increase or decrease shall take effect unless at least 30 days prior to the effective date of that increase or decrease, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes the increase or decrease, and unless at least six months have elapsed without any increase in the rate.

C. 17:11A-44.8 Open-end loans.

20. (New section) Notwithstanding the provisions of R.S. 31:1-1 or any other law to the contrary, and subject to all applicable provisions of this act, a licensee shall have authority to make open-end loans, and may charge, contract for, and receive thereon, interest at an annual percentage rate agreed to by the licensee and the borrower, upon the same terms and conditions permitted to banks, savings banks, and savings and loan associations pursuant to State and federal laws and regulations promulgated thereunder.

C. 17:11A-44.9 Authority to collect fees.

21. (New section) Licensees shall have authority to collect fees for title examination, abstract of title, survey, title insurance, credit reports, appraisals, and recording fees when those fees are actually paid by the licensee to a third party for those services or purposes and to include those fees in the amount of the loan principal. Licensees shall also have the authority to charge and collect check

collection charges in the amount charged to the licensee. Licensees shall also have the authority to charge and collect a late charge in any amount as may be provided in the note or loan agreement, but no late charge shall exceed 5% of the amount of payment in default. Not more than one late charge shall be assessed on any one payment in arrears.

C. 17:11A-59.1 Penalty for excess charges.

22. (New section) If a licensee charges or collects interest, costs or other charges in excess of those permitted by the "Secondary Mortgage Loan Act," P.L. 1970, c. 205 (C. 17:11A-34 et seq.), the licensee may collect only the principal amount of the loan, and may not collect interest, costs or other charges with respect to the loan. In addition, a licensee who knowingly and willfully violates any provision of that act shall also forfeit to the borrower three times any amount of the interest, costs or other charges collected in excess of that authorized by law.

C. 17:11A-59.2 Unintentional error.

23. (New section) A licensee shall have no liability for unintentional error if within 90 days after discovering an error the licensee notifies the borrower of the error and makes adjustments in the account as necessary to assure that the borrower will not be required to pay any interest, costs, or other charges which aggregate in excess of the charges permitted under the "Secondary Mortgage Loan Act," P.L. 1970, c. 205 (C. 17:11A-34 et seq.).

Repealer.

24. Sections 6, 7, 11, 23, and 25 of P.L. 1970, c. 205 (C. 17:11A-39, 17:11A-40, 17:11A-44, 17:11A-56 and 17:11A-58) and sections 3 through 7 of P.L. 1983, c. 437 (C. 17:11A-44.1 through 17:11A-44.5) are repealed.

25. This act shall take effect immediately.

Approved July 31, 1987.

CHAPTER 231

AN ACT establishing a Petroleum Overcharge Reimbursement Fund and providing for the allocation and expenditure of the moneys in that fund, supplementing Title 52 of the Revised Statutes, and making appropriations.

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

C. 52:18A-209 Petroleum Overcharge Reimbursement Fund.

1. There is established in the General Fund a special fund to be known as the "Petroleum Overcharge Reimbursement Fund," hereinafter referred to as the "fund." The State Treasurer shall credit the fund with all moneys received by the State as payments for overcharges for petroleum products pursuant to any agreement between the United States Government and a petroleum company. The fund shall be administered by the State Treasurer, and any interest earned on moneys in the fund shall be credited to the fund.

2. There is appropriated from the fund the sum of \$8,500,000.00 to the Department of Community Affairs for grants for retrofitting of oil-fired furnaces and other energy efficiency improvements in low-income households.

3. There is appropriated from the fund the sum of \$58,500,000.00 to the Department of Commerce and Economic Development for the following purposes:

a. \$25,000,000.00 for energy efficiency rehabilitation grants for nonprofit hospitals and group homes, public and private nonprofit schools, boarding homes, residential health care facilities, and homeless shelters;

b. \$7,000,000.00 for loans or grants to small businesses, farms and other eligible businesses for feasibility planning for future energy conservation techniques pursuant to the Business Energy Improvement Subsidy Program established pursuant to regulations in New Jersey Administrative Code 14A:6-2.1 et seq.; except, that the department may allocate up to \$2,000,000.00 of the amount appropriated pursuant to this subsection for grants for feasibility planning for future energy conservation techniques;

c. \$15,000,000.00 for an energy conservation rehabilitation loan program which shall be implemented by the New Jersey Housing and Mortgage Finance Agency. This program shall be designed to direct

the loan moneys to municipalities which are implementing a housing element pursuant to the "Fair Housing Act," P.L. 1985, c. 222 (C. 52:27D-301 et al.);

d. \$10,000,000.00 for low- or zero-interest loans to local government units for the energy efficiency or conservation components of resource recovery facilities. 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 recovery and the recovery of metals and other materials for reuse; and

e. \$1,500,000.00 for planning and administrative costs incurred by the Department of Commerce and Economic Development in implementing the provisions of this section.

4. There is appropriated from the fund the sum of \$50,000,000.00 to the Department of Human Services for the following purposes:

\$30,000,000.00 for providing energy assistance pursuant to the low-income energy assistance program established pursuant to the "Low-Income Home Energy Assistance Act of 1981," Pub.L. 97-35, Title XXVI (42 U.S.C. §8621 et seq.).*

C. 52:18A-210 Eligibility guidelines; distribution procedures.

5. a. The commissioner of any department receiving an appropriation pursuant to this act shall issue guidelines concerning the eligibility for available funds and procedures for the distribution of funds, and may adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

b. The sums appropriated pursuant to this act shall be obligated by the departments receiving an appropriation pursuant to this act within three years of the effective date of this act.

c. Within two years of the effective date of this act, the departments receiving an appropriation pursuant to this act shall submit to the Governor and the Legislature a report detailing the proposed and actual expenditure of the sums appropriated.

C. 52:18A-211 Annual budget recommendation.

6. The annual budget recommendation shall include a schedule reflecting the actual expenditure and proposed appropriation of amounts from the Petroleum Overcharge Reimbursement Fund and shall further include a specific recommendation for appropriation of amounts from the fund for each department for which an appropriation is recommended, in the same manner and with the same infor-

mation as is the case with all other recommendations for appropriations from the General Fund.

7. This act shall take effect immediately.

Approved August 3, 1987.

*Additional allocation deleted by line-item veto of the Governor. See statement following.

Statement to Chapter 231
(S.C.S. for Senate Bill No. 2666 et al. (OCR))

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Committee Substitute for Senate Bill No. 2666 and Assembly Bill Nos. 2349, 2351, 2352, 2388, 3347, 3348, 3349, 3351, 3444, 3445 and 3446 (OCR) at the time of signing it my 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 the Petroleum Overcharge Reimbursement Fund and provides for the allocation and expenditure of oil overcharge settlement monies currently in the possession of the State of New Jersey and any monies subsequently received pursuant to settlement agreements between the United States Government and petroleum companies. The bill allocates a total of \$117 million among three departments and designates the programmatic uses to which those monies would be put.

Pursuant to the spending plan outlined in this bill, \$50 million is to be allocated to the Department of Human Services' Low Income Home Energy Assistance Program (LIHEAP). Of that \$50 million, \$30 million would be used to provide increased payments to current recipients of home energy assistance benefits. The remaining \$20 million must be used by the Department of Human Services to provide home energy assistance payments to persons currently receiving benefits pursuant to the State Lifeline Credit Program or the State Tenants' Lifeline Assistance Program, but who are not receiving LIHEAP benefits. The effectiveness of this \$20 million program component is premised upon the assumption that increased efforts will be undertaken by the Department of Human Services to bring into the program the senior citizen and disabled Lifeline program population targeted for receipt of LIHEAP benefits. If those efforts prove unsuccessful—and there is every reason to suppose they will since current, extensive outreach efforts apparently have not reached this population—the money will not be expended.

While I fully support the allocation of a portion of the oil overcharge monies to the Department of Human Services' home energy assistance program, the Commissioner of the Department of Human Services has advised me that this additional \$20 million which the Legislature has allocated to LIHEAP will not be spent; rather, the money appears destined to remain on our books as an appropriated, but unexpended, sum until the Legislature agrees that the program is not an effective one, rescinds this appropriation and reappropriates this money for another energy-related program. Thus, despite the Legislature's good intentions, it appears this proposed \$20 million LIHEAP component of the spending plan will not result in real benefits for these citizens whom the Legislature sought to assist.

I wholeheartedly agree with the Legislature's effort to help our senior citizens and disabled persons in meeting their energy costs. However, a delay in use of the petroleum overcharge monies, such as would be caused by the inclusion of this \$20 million allocation in the bill, works in contravention of the goal to assist our seniors and disabled. Rather than see such a significant amount of money languish in the Petroleum Overcharge Reimbursement Fund for a number of years, I am taking the liberty of proposing two alternative programs for the Legislature's consideration through which I believe the \$20 million can be put to immediate use for our elderly and disabled citizens. Of course, I continue to remain receptive to any other programs that the Legislature may devise for the expenditure of these monies, so long as those programs meet the federal guidelines which conditioned New Jersey's receipt of these monies.

The Housing Mortgage Finance Agency (HMFA) has proposed a \$10 million program that would make available construction grants to be used for energy conservation improvements in multi-family senior citizen and handicapped HMFA-funded housing projects. The Director of HMFA has informed my office that the Agency has a list of existing multi-family senior citizen and disabled person buildings that can readily make use of the conservation grants, should they become available. These grants would pay for such energy saving improvements as the installation of energy saving windows and insulation and conversion to energy sensitive lighting and heating controls.

The second program would be administered by the Department of Community Affairs (DCA) through its existing oil heat retrofit service. The DCA would target an additional \$10 million for oil heated single-family elderly and disabled person households in order to

provide new heating oil burners in the homes that will most benefit from such conservation improvements. Audits would be performed to determine in which households retrofitting would achieve maximum energy efficiency. The DCA is confident that fully 20 percent of our elderly and disabled residences can be served by this redirection of oil overcharge funds.

The energy improvements facilitated by both of the previously described programs will result in significant savings in rent for the residents of the multi-family rental buildings so improved and will reduce the home heating costs of those persons who own their own homes or units. Additionally, the energy improvements contemplated by these two programs provide a method by which we can achieve long-lasting protection for our more vulnerable citizens from energy price shocks forced by an unpredictable energy supply.

In summation, I encourage the Legislature to consider my suggestions concerning alternative uses for the \$20 million by which I have reduced the appropriation contained in this bill. I am confident that the proposed HMFA and DCA programs will directly assist the very same senior citizen and disabled population targeted by the \$20 million program as set forth in this bill. I am hopeful that a new piece of legislation incorporating these substitute programs, or other programs designed by the Legislature, will reach my desk in an expedient fashion so that all of the oil overcharge monies can immediately be put to work for the benefit of New Jersey's citizens.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 3, Section 4, Line 7: Delete "a."

Page 3, Section 4, Line 12: Delete lines 12 through 21.

Respectfully,
Thomas H. Kean
Governor

CHAPTER 232

AN ACT concerning juvenile justice and supplementing Title 2A of the New Jersey Statutes.

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

1. a. The Administrative Office of the Courts in consultation with the Department of Human Services shall study and evaluate the operations and impact of juvenile-family crisis intervention units.

b. The Administrative Office of the Courts shall file annually with the Governor, the Legislature, and the Juvenile Delinquency Disposition Commission a report of its findings and recommendations which shall provide information on the organization and structure of units, the types and number of cases handled, the outcome of those cases and the effectiveness of the units in handling juvenile-family crisis situations.

2. This act shall take effect immediately and shall expire five years after enactment.

Approved August 3, 1987.

CHAPTER 233

AN ACT concerning juvenile justice and supplementing Title 2A of the New Jersey Statutes.

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

1. a. The Administrative Office of the Courts shall study and evaluate the progress being made toward, and the impact of the creation of the family part of the Superior Court with particular reference to delinquency and juvenile-family crisis cases.

b. The Administrative Office of the Courts shall file annually with the Governor, the Legislature, and the Juvenile Delinquency Disposition Commission a report of its findings and recommendations as a result of its study of the family part.

2. This act shall take effect immediately and shall expire five years after enactment.

Approved August 3, 1987.

CHAPTER 234

AN ACT concerning the Juvenile Delinquency Disposition Commission and amending P.L. 1982, c. 77 and making an appropriation.

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

1. Section 30 of P.L. 1982, c. 77 (C. 2A:4A-49) is amended to read as follows:

C. 2A:4A-49 Juvenile Delinquency Commission.

30. Juvenile Delinquency Commission.

a. There is created a Juvenile Delinquency Commission of 21 members consisting of the Governor or his designee; two members of the Senate, no more than one of whom shall be of the same political party, appointed by the President of the Senate; two members of the General Assembly, no more than one of whom shall be of the same political party, appointed by the Speaker of the General Assembly; the Chief Justice of the Supreme Court or his designee; the Attorney General or his designee; the Public Advocate or his designee; the chairman of the State Parole Board or his designee; the Commissioner of the Department of Corrections or his designee; the Commissioner of the Department of Education or his designee; the Commissioner of the Department of Human Services or his designee; the President of the County Prosecutors Association of New Jersey or his designee; the President of the New Jersey Association of Counties or his designee; the President of the League of Municipalities or his designee; the Commissioner of the Department of Health or his designee; and five public members three of whom will be appointed by the Governor, one by the President of the Senate and one by the Speaker of the General Assembly. The legislative members shall serve for terms coextensive with their respective terms as a member of the House of the Legislature from which they are appointed and each public member shall serve for a term of three years. Members shall be eligible for reappointment to the commission, and vacancies

in the commission shall be filled in the same manner as the original appointment, but for the unexpired term only. The members of the commission shall serve without compensation, but shall be reimbursed for necessary expenses actually incurred in the performance of their duties under this act. The commission shall choose a chairman from among its members and appoint a secretary who need not be a member of the commission.

b. It shall be the duty of the commission to study and review the provisions of the "New Jersey Code of Juvenile Justice," P.L. 1982, c. 77 (C. 2A:4A-20 et seq.), P.L. 1982, c. 79 (C. 2A:4A-60 et seq.), P.L. 1982, c. 80 (C. 2A:4A-76 et seq.) and P.L. 1982, c. 81 (C. 2A:4A-70 et seq.) and all aspects of the juvenile justice system with particular reference to delinquency trends and dispositions. The commission shall compile, on a county by county basis, individual case data including, but not limited to, information on the age, sex and race of court involved juveniles, and the organization, availability and interrelationship of services for court involved youth pursuant to procedures established by the Administrative Office of the Courts. The commission shall also study the organization, availability and interrelationship of services for court involved youth, with particular reference to non-judicial services and analyze the reasons for and the effectiveness of outcomes and dispositions in delinquency and delinquency related cases. This information should be reviewed with the objective of reporting findings to the Governor and Legislature on an annual basis and developing, where appropriate, guidelines as to the disposition of juveniles adjudicated delinquent. The commission shall also provide assistance to the Legislature or its committees as may be required. The commission shall also act as a clearinghouse for improving coordination within the juvenile justice system and for disseminating information and data relating to its mandate.

c. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of the State and the political subdivisions thereof as it may require and as may be available to it for said purpose, to review information as may be required to fulfill its mandates and to employ such professional, 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 said purposes.

d. After its first report, the commission shall file annually with the Governor and the Legislature a report containing its findings and

recommendations concerning court involved youth and the operations of the juvenile justice system. Additionally, the commission shall report to the Governor and the Legislature on the operation of subsection c. of section 24 of this act 24 months from the effective date of this act.

2. There shall be appropriated to the Juvenile Delinquency Commission from the General Fund the sum of \$50,000.00 for the additional responsibilities created by this act.

3. This act shall take effect immediately.

Approved August 3, 1987.

CHAPTER 235

AN ACT requiring the Juvenile Delinquency Disposition Commission to establish a special task force to study and make recommendations concerning the disposition of developmentally disabled juvenile offenders and making an appropriation.

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

1. The Juvenile Delinquency Disposition Commission shall establish a special task force to study the implementation of section 25 of P.L. 1982, c. 77 (C. 2A:4A-44) and the disposition of developmentally disabled juvenile offenders. This task force shall consist of 12 members: the Attorney General or his designee; the Commissioner of Human Services or his designee; the Commissioner of Education or his designee; the Public Advocate or his designee; the Chairman of the State Parole Board or his designee; the Chief Justice or his designee; and five public members qualified by their education and experience in the areas of developmentally disabled juveniles to be appointed by the chairperson of the commission. The Chairperson of the Juvenile Delinquency Disposition Commission shall serve as the chairperson of the task force. Members of the task force shall serve without compensation, but shall be reimbursed for their expenses actually incurred in the performance of their duties.

2. The Juvenile Delinquency Disposition Commission shall review the determinations of this special task force and report its findings and provide recommendations to the Legislature on the

disposition of developmentally disabled juvenile offenders within six months of the effective date of this act.

3. There is appropriated from the General Fund to the Juvenile Delinquency Disposition Commission the sum of \$10,000.00 to effectuate the purposes of this act.

4. This act shall take effect immediately and shall expire upon the submission by the commission of its report pursuant to section 2 hereof.

Approved August 3, 1987.

CHAPTER 236

AN ACT concerning the structure of county government and amending and supplementing parts of the statutory law.

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

1. R.S. 40:20-1 is amended to read as follows:

Board of chosen freeholders.

40:20-1. The property, finances and affairs of every county shall be managed, controlled and governed by a board elected therein, to be known as "the board of chosen freeholders of the county of (specifying name of county)," and the executive and legislative powers of the county shall be vested in that board of chosen freeholders, except where by law any specific powers or duties are imposed or vested in a Constitutional officer.

The board of chosen freeholders of any county which has created the office of county administrator, pursuant to the provisions of N.J.S. 40A:9-42, may, by resolution, delegate to that office such executive and administrative powers, duties, functions and responsibilities as the board may deem appropriate.

2. N.J.S. 40A:9-42 is amended to read as follows:

County administrator.

40A:9-42. The board of chosen freeholders of any county, other than a county having adopted a form of government pursuant to the provisions of P.L. 1972, c. 154 (C. 40:41A-1 et seq.), may by resolution create the office of county administrator, to act as the executive or

administrative officer for the board and to have such executive and administrative powers, perform such executive and administrative duties and to receive such compensation as the resolution creating such office shall provide and as may from time to time otherwise be directed by the board by resolution.

In any county creating the position of county administrator the board by majority vote of all its members shall appoint some suitably qualified person to such office for a term of three years and until appointment and qualification of his successor; provided, however, that a county which changes the term of office of its board of chosen freeholders from three to four years, as provided in section 6 of this amendatory and supplementary act, may appoint a county administrator for a term of four years.

3. (New section) Chapter 20 of Title 40 of the Revised Statutes is supplemented as follows:

C. 40:20-1.2 Broad grant of powers.

The grant of powers under this amendatory and supplementary act is intended to be as broad as is consistent with the Constitution of the State of New Jersey and with general law relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its structure and to alter or abolish its agencies, subject to the general mandate of performing services, whether they be performed by the agency previously established or by a new agency or another department of county government. All county offices, boards, commissions, and authorities authorized or established by statute, other than those boards and offices which are subject to the provisions of subsection b. of section 4 of this amendatory and supplementary act, and other than educational institutions authorized or established pursuant to Title 18A of the New Jersey Statutes, shall be considered to be county agencies for the purposes of this section.

4. (New section) Chapter 20 of Title 40 of the Revised Statutes is supplemented as follows:

C. 40:20-1.3 Administrative code.

a. The board of chosen freeholders may adopt an administrative code organizing the administration of the county government, setting forth the duties and responsibilities and powers of all county officials and agencies, and the manner of performance needed.

b. The administrative code may require that the county board of taxation, county board of elections, jury commissioners of the

county, county register of deeds, county clerk, surrogate and sheriff be subject to such annual budgetary procedures and requirements as may be specified therein. These procedures and requirements may include, but shall not be limited to, the preparation and submission of an annual budget in accordance with the provisions of the administrative code, and the submission of such periodic budget reports as may be provided therein. The administrative code may further provide that the county board of taxation, county board of elections, jury commissioners of the county, county register of deeds, county clerk, surrogate and sheriff shall be subject to such accounting controls, central purchasing practices, personnel procedures, and central data processing services as are specified in the code, or in administrative orders adopted pursuant thereto; provided, however, that nothing herein shall restrict or limit the authority of the county board of taxation, county board of elections, jury commissioners of the county, county register of deeds, county clerk, surrogate, and sheriff as the appointing authority of their respective offices.

c. Nothing in the administrative code shall change the duties or powers of county officers whose existence is mandated by the Constitution or shall diminish the duties, responsibilities or powers of those county officers.

d. An administrative code adopted pursuant to this section shall enter into effect 30 days after its adoption, and all theretofore existing agencies shall assume the form, perform the duties, and exercise the powers granted them under the administrative code and shall do so in the manner prescribed therein.

5. (New section) Chapter 20 of Title 40 of the Revised Statutes is supplemented as follows:

C. 40:20-1.4 Additional powers.

In addition to the powers set forth in sections 3 and 4 of this amendatory and supplementary act, the board of chosen freeholders is authorized and empowered to make policy and management decisions related to those activities of any independent boards of county government or State appointed officials of county government, which are duplicative in nature or which duplicate the activities, responsibilities or duties of any other agency or department of county government.

6. (New section) Chapter 20 of Title 40 of the Revised Statutes is supplemented as follows:

C. 40:20-20.4 Proposition to change term of office.

Notwithstanding the provisions of any other law to the contrary, in any county, other than a county having adopted a form of government authorized under the provisions of P.L. 1972, c. 154 (C. 40:41A-1 et seq.), a proposition may be submitted to the voters of the county to change the term of office for the members of the board of chosen freeholders from three to four years, to provide for staggered terms of office for the members of the board of chosen freeholders, and to provide for biennial elections of members of the board of chosen freeholders.

The proposition shall be submitted either upon the adoption of a resolution of the governing body of the county after public hearing thereon, or upon submission to the county clerk of a petition signed by a number of the legal voters of the county equal in number to at least 15% of the total votes cast in the county at the last election at which members of the General Assembly were elected. The proposition shall not be submitted more than once in any three year period.

A petition submitted pursuant to this section shall be verified, inspected and certified as to the authenticity of the signatures attached thereto by the county clerk within 20 days of submission, and shall be submitted at the next general election occurring at least 40 days after certification.

The question of increasing the term of office of the members of the board of chosen freeholders, providing for staggered terms of office for the members of the board of chosen freeholders, and providing for biennial elections of members of the board of chosen freeholders shall be submitted to the voters of the election in substantially the following form:

“Shall the term of office of the members of the board of chosen freeholders of (insert name of county) be increased from three to four years and shall members of the board of chosen freeholders serve for staggered terms and be elected at biennial elections?”

A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to make the change.

New Jersey State Library

7. (New section) Chapter 20 of Title 40 of the Revised Statutes is supplemented as follows:

C. 40:20-20.5 Election of new board.

In the event of a favorable vote on a proposition submitted pursuant to the provisions of section 6 of this amendatory and supplementary act, the first election of members of the board of chosen freeholders under that adopted proposition shall take place at the next general election immediately following that adoption.

In November of the first general election following the adoption of the proposition, the terms of all incumbent members of the board of chosen freeholders shall be deemed terminated at noon on the first Monday following the election of the new board of chosen freeholders. On that date, the newly elected freeholders shall take office and the new board shall organize itself accordingly, but their terms of office shall expire as if they had taken office on January 1 in the year following their election and in accordance with the following terms:

- a. If there be three members to be elected, two shall be elected for two years and one for four years.
- b. If there be five members to be elected, three shall be elected for two years and two for four years.
- c. If there be seven members to be elected, four shall be for two years and three for four years.
- d. If there be nine members to be elected, five shall be elected for two years and four for four years.

The length of the terms specified in subsections a. through d. of this section shall be determined by a drawing to be conducted by the county clerk 60 days prior to the first general election.

In all elections after the first election, all members shall be elected for four year terms beginning on January 1 in the year following their election.

Nothing in this section shall be construed to prevent an incumbent freeholder from becoming a candidate for the new board, even if his present term on the board has not yet expired.

8. (New section) P.L. 1972, c. 154 (C. 40:41A-1 et seq.) is supplemented as follows:

C. 40:41A-148 Referendum procedure.

Notwithstanding the provisions of any other law to the contrary, in any county which has adopted a form of government authorized

under the provisions of P.L. 1972, c. 154 (C. 40:41A-1 et seq.), a proposition may be submitted to the voters of the county to change the term of office for the members of the board of chosen freeholders from three to four years, to provide for staggered terms of office for the members of the board of chosen freeholders, and to provide for biennial elections of members of the board of chosen freeholders.

The proposition shall be submitted either upon the adoption of an ordinance of the governing body of the county after public hearing thereon, or upon submission to the county clerk of a petition signed by a number of the legal voters of the county equal in number to at least 15% of the total votes cast in the county at the last election at which members of the General Assembly were elected. The proposition shall not be submitted more than once in any three year period.

A petition submitted pursuant to this section shall be verified, inspected and certified as to the authenticity of the signatures attached thereto by the county clerk within 20 days of submission, and shall be submitted at the next general election occurring at least 40 days after certification.

The question of increasing the term of office of the members of the board of chosen freeholders, providing for staggered terms of office for the members of the board of chosen freeholders, and providing for biennial elections of members of the board of chosen freeholders shall be submitted to the voters at the election in substantially the following form:

“Shall the term of office of the members of the board of chosen freeholders of (insert name of county) be increased from three to four years and shall members of the board of chosen freeholders serve for staggered terms and be elected at biennial elections?”

A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to make the change.

9. (New section) P.L. 1972, c. 154 (C. 40:41A-1 et seq.) is supplemented as follows:

C. 40:41A-149 First elections.

In the event of a favorable vote on a proposition submitted

pursuant to the provisions of section 8 of this amendatory and supplementary act, the first election of members of the board of chosen freeholders under that adopted proposition shall take place at the next general election immediately following that adoption, except that in the case of a county which has adopted the county executive plan form of government set forth in Article 3 of P.L. 1972, c. 154 (C. 40:41A-31 et seq.), the first election of members of the board of chosen freeholders under the provisions of the adopted proposition shall take place as follows:

a. In a county where the county executive was first elected in an even calendar year, the first election of members of the board of chosen freeholders under the provisions of the adopted proposition shall take place at the general election occurring in the first even calendar year immediately following the adoption of the proposition.

b. In a county where the county executive was first elected in an odd calendar year, the first election of members of the board of chosen freeholders under the provisions of the adopted proposition shall take place at the general election occurring in the first odd calendar year immediately following the adoption of the proposition.

In November of the general election year in which the first members of the board of chosen freeholders under any form of government adopted pursuant to P.L. 1972, c. 154 (C. 40:41A-1 et seq.) are elected pursuant to the provisions of the adopted proposition and this section, the terms of all incumbent members of the board of chosen freeholders shall be deemed terminated at noon on the first Monday following the election of the new board of chosen freeholders. On that date, the newly elected freeholders shall take office and the new board shall organize itself accordingly, but their terms of office shall expire as if they had taken office on January 1 in the year following their election and in accordance with the following terms:

(1) If there be five members to be elected, all at large or all by district, three shall be elected for two years and two for four years.

(2) If there be seven members to be elected, all at large or all by district, four shall be elected for two years and three for four years.

(3) If there be nine members to be elected, all at large or all by district, five shall be elected for two years and four for four years.

(4) If there be five members to be elected, three by district and two at large, three district members shall be elected for two years and two at large members shall be elected for four years.

(5) If there be seven members to be elected, four by district and three at large, four district members shall be elected for two years and three at large members shall be elected for four years.

(6) If there be nine members to be elected, five by district and four at large, five district members shall be elected for two years and four at large members shall be elected for four years.

The length of the terms specified in subsections (1) through (3) of this section shall be determined by a drawing to be conducted by the county clerk 60 days prior to the general election at which the first members of the board of chosen freeholders are elected pursuant to the provisions of the adopted proposition.

In all elections after the first election, all members shall be elected for four year terms beginning on January 1 of the year following their election.

Nothing in this section shall be construed to prevent an incumbent freeholder from becoming a candidate for the new board, even if his present term on the board has not yet expired.

10. This act shall take effect immediately.

Approved August 4, 1987.

CHAPTER 237

AN ACT concerning surplus line insurer insolvencies and amending P.L. 1984, c. 101.

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

1. Section 3 of P.L. 1984, c. 101 (C. 17:22-6.72) is amended to read as follows:

C. 17:22-6.72 Definitions.

3. As used in this act:

a. "Association" means the New Jersey Property-Liability Insurance Guaranty Association created pursuant to P.L. 1974, c. 17 (C. 17:30A-1 et seq.).

b. "Covered claim" means an unpaid claim, including a claim for unearned premiums, which arises out of and is within the cov-

erage, and not in excess of the applicable limits of an insurance policy to which this act applies, and which was issued by a surplus lines insurer which was eligible to transact insurance business in this State at the time the policy was issued and which has been determined to be an insolvent insurer on or after June 1, 1984, if (1) the claimant or policyholder is a resident of this State at the time of the occurrence of the insured event for which a claim has been made, or (2) the property from which the claim arises is permanently located in this State.

“Covered claim” shall not include any amount due any reinsurer, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that a claim for any such amount, asserted against a person insured under a policy issued by a surplus lines insurer which has become an insolvent insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, or underwriting association, would be a “covered claim,” may be filed directly with the receiver of the insolvent insurer, but in no event may any such claim be asserted in any legal action against the insured of that insolvent insurer. “Covered claim” shall also not include amounts for interest on unliquidated claims, punitive damages unless covered by the policy, counsel fees for prosecuting suits for claims against the fund, and assessments or charges for failure by an insolvent insurer to have expeditiously settled claims.

c. “Fund” means the New Jersey Surplus Lines Insurance Guaranty Fund created pursuant to section 4 of this act.

d. “Insolvent insurer” means an insurer which was an eligible surplus lines insurer at the time the insurance policy was issued or when the insured event occurred, and which is determined to be insolvent by a court of competent jurisdiction in this State or the state or place in which the surplus lines insurer is domiciled. “Insolvent insurer” does not include an admitted insurer issuing insurance pursuant to section 10 of P.L. 1960, c. 32 (C. 17:22-6.44).

e. “Member insurer” means an eligible, nonadmitted or surplus lines insurer required to be a member of, and that is subject to assessments by the fund.

f. “Net direct written premiums” means direct gross premiums on insurance policies written by a surplus lines insurer to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on that direct business. If a policy issued by a surplus lines insurer covers risks or exposures only partially in

this State, the "net direct written premiums" shall be computed, for assessment purposes, on that portion of the premium subject to the premium receipts tax levied in accordance with section 25 of P.L. 1960, c. 32 (C. 17:22-6.59). "Net direct written premiums" do not include premiums on contracts between insurers or reinsurers.

g. "Surplus lines insurer" means a nonadmitted insurer approved as an eligible, nonadmitted or unauthorized insurer pursuant to section 11 of P.L. 1960, c. 32 (C. 17:22-6.45) at the time the policies were issued against which a covered claim may be filed in accordance with this act.

2. This act shall take effect immediately.

Approved August 12, 1987.

CHAPTER 238

AN ACT regulating the sellers of health club services and supplementing P.L. 1960, c. 39 (C. 56:8-1 et seq.).

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

C. 56:8-39 Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

b. "Health club" means an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being. The term includes an establishment designated as "reducing salon," "health spa," "spa," "exercise gym," "health studio," "health club," or by other terms of similar import.

c. "Health club services" means those services offered by a health club for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.

d. "Health club services contract" means an agreement under which the buyer of health club services purchases or becomes obligated to purchase health club services.

e. "Operating day" means any calendar day on which patrons may inspect and use the health club's facilities and services during a period of at least eight hours, except holidays and Sundays.

C. 56:8-40 Registration.

2. Each person who sells or offers for sale health club services in this State shall register with the director on forms the director provides. The registration shall be renewed every two years. Upon the sale of the health club facility or a change in the majority ownership of the stock of the corporate owner, the health club facility shall reregister with the director and shall pay the registration fee. The person shall provide the full name and address of each business location where health club services are sold in the State as well as any other information regarding the ownership and operation of each health club that the director deems appropriate. The registration and renewal fees shall be established or changed by the director and shall be fixed at a level to allow for the proper administration and enforcement of this act, but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

C. 56:8-41 Bond required.

3.a. A person who sells or offers for sale health club services shall, for each health club facility operated in the State, maintain a bond issued by a surety authorized to transact business in this State or maintain an irrevocable letter of credit by a bank or maintain with the director securities, moneys or other security acceptable to the director to fulfill the requirements of this subsection. The principal sum of the bond, letter of credit, or securities, moneys or other security shall be 10% of the health club's gross income for health club services during the club's last fiscal year, except that the principal sum of the bond, letter of credit, or securities, moneys or other security shall not be less than \$25,000.00, nor more than \$50,000.00. However, the principal sum of the bond, letter of credit, or securities, moneys or other security shall be \$50,000.00 for any period of time that a person sells or offers for sale health club services prior to the opening of the health club facility. After the health club facility opens, the bond, letter of credit, or securities, moneys or other security shall be adjusted to the appropriate sum. The bond, letter of credit, or securities, moneys or other security shall be filed or deposited with the director and shall be executed to the State of New Jersey for the use of any person who, after entering into a health club services contract, is damaged or suffers any loss by reason of breach of contract or bankruptcy by the seller. Any person claiming against the bond, letter of credit, or securities, moneys, or other security may

maintain an action at law against the health club and the surety, bank or director, as the case may be. The aggregate liability of the surety, bank, or the director to all persons for all breaches of the conditions of the bond, letter of credit, or the securities, moneys or other security held by the director shall not exceed the amount of the bond, letter of credit, or the securities, moneys or other security held by the director.

In the case of a bond, the health club shall file a copy of the bond with the director and a certificate by the surety that the surety will notify the director at least 10 days in advance of the date of any cancellation or material change in the bond.

b. The provisions of subsection a. of this section shall not be applicable to a person who sells or offers for sale health club services in which the buyer of the health club services purchases or becomes obligated to purchase health club services to be rendered over a period no longer than three months and in which the seller of the health club services requires or collects no more than three months' payment in advance. The person who sells or offers for sale health club services under contracts provided for in this subsection shall file with the director, within 30 days following the effective date of this act and no later than January 15 of every even-numbered year, a declaration, executed under penalty of perjury, stating he sells or offers for sale only health club services under contracts which comply with this subsection. Any person who has filed a declaration pursuant to this subsection and who intends to sell or offer for sale health club services under contracts with longer terms or greater payments in advance than those provided in this subsection shall comply with subsection a. of this section.

C. 56:8-42 Health club services contract.

4. a. Every contract for health club services shall be in writing. A copy of the written contract shall be given to the buyer at the time the buyer signs the contract.

b. A health club services contract shall specifically set forth in a conspicuous manner on the first page of the contract the buyer's total payment obligation for health club services to be received pursuant to the contract.

c. A health club services contract of a health club facility which maintains a bond, irrevocable letter of credit or securities, moneys or other security pursuant to subsection a. of section 3 of this act shall set forth that a bond, irrevocable letter of credit or securities,

moneys or other security is filed or deposited with the Director of the Division of Consumer Affairs to protect buyers of these contracts who are damaged or suffer any loss by reason of breach of contract or bankruptcy by the seller.

d. Services to be rendered to the buyer under the contract shall not obligate the buyer for more than three years from the date the contract is signed by the buyer.

e. A contract for new or increased health club services may be cancelled by the buyer for any reason at any time before midnight of the third operating day after the buyer receives a copy of the contract. In order to cancel a contract the buyer shall notify the health club of cancellation in writing, by registered or certified mail, return receipt requested, or personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the customer has executed any credit or loan agreement through the health club to pay all or part of health club services, the negotiable instrument executed by the buyer shall also be returned within 30 days. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

"NOTICE TO CUSTOMER

You are entitled to a copy of this contract at the time you sign it.

You may cancel this contract at any time before midnight of the third operating day after receiving a copy of this contract. If you choose to cancel this contract, you must either:

1. Send a signed and dated written notice of cancellation by registered or certified mail, return receipt requested; or
2. Personally deliver a signed and dated written notice of cancellation to:

..... (Name of health club)

..... (Address of health club)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. If the third operating day falls on a Sunday or holiday, notice is timely given if it is mailed or delivered as specified in this notice on the next operating day.

Refunds must be made within 30 days of receipt of the cancellation notice to the health club.

‘Operating day’ means any calendar day on which patrons may inspect and use the health club’s facilities and services during a period of at least eight hours, except holidays and Sundays.”

f. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer’s death or permanent disability, if the permanent disability is fully described and confirmed to the health club by a physician. In a cancellation under this subsection, the health club may retain the portion of the total contract price representing the services used plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.

g. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer’s change of permanent residence to a location more than 25 miles from the health club or an affiliated health club offering the same or similar services and facilities at no additional expense to the buyer. In a cancellation under this subsection, the health club may require proof of the new permanent residence and may retain a prorated share of the total contract price based upon the date the notice was received plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.

h. A health club services contract shall provide that if a health club facility is closed for a period longer than 30 days through no fault of the buyer of the health club services contract, the buyer is entitled to either extend the contract for a period equal to that during which the facility is closed or to receive a prorated refund of the amount paid by the buyer under the contract.

i. A health club services contract shall not obligate the buyer to renew the contract.

j. If a health club facility is not in existence on the date the contract is executed, the health club services contract shall provide that a buyer of a contract may cancel the contract if the facility is not open for business on a date which shall be set forth in the contract and receive a full refund of any deposit or payment on the contract.

C. 56:8-43 Rights, defenses unimpaired.

5. a. A health club services contract shall not require the execution of any note or series of notes by the buyer which, if separately negotiated, will cut off as to third parties any right of action or defense which the buyer has against the health club.

b. A right of action or defense arising out of a health club services contract which the buyer has against the health club shall not be cut off by assignment of the contract whether or not the assignee acquires the contract in good faith and for value.

C. 56:8-44 Down payment.

6. A health club may not charge and accept a down payment exceeding 25% of the total contract price prior to opening the health club facility.

C. 56:8-45 Voidable, void contracts.

7. a. Any health club services contract entered into in reliance upon any fraudulent or substantially and willfully false or misleading information, representation, notice or advertisement of the health club is voidable at the option of the buyer of the contract. Any health club services contract which does not comply with the applicable provisions of this act is voidable at the option of the buyer of the contract.

b. Any waiver by the buyer of the provisions of this act is void.

C. 56:8-46 Unlawful practice.

8. It is an unlawful practice and a violation of P.L. 1960, c. 39 (C. 56:8-1 et seq.) to violate the provisions of this act.

C. 56:8-47 Exemptions.

9. The provisions of this act shall not apply to any nonprofit public or private school, college or university; the State or any of its political subdivisions; or any bona fide nonprofit, religious, ethnic, or community organization.

C. 56:8-48 Rules, regulations.

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

11. This act shall take effect on the 120th day after enactment and shall apply to all health club services contracts entered into on or after the effective date.

Approved August 12, 1987.

CHAPTER 239

AN ACT exempting certain sports officials from liability for damages under certain conditions.

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

C. 2A:62A-6.1 Limited civil immunity.

1. Notwithstanding any provisions of law to the contrary, a person who is accredited as a sports official by a voluntary association as provided by P.L. 1979, c. 172 (C. 18A:11-3) and who serves that association, a conference under the jurisdiction of the association, or a public entity as defined in Title 59 of the New Jersey Statutes in the capacity of a sports official, whether or not compensated for his services, shall not be liable in any action for damages as a result of his acts of commission or omission arising out of and in the course of his rendering the services. Nothing in this act shall be deemed to grant immunity to any person causing damage by his willful, wanton, or grossly negligent act of commission or omission, nor to any person causing damage as the result of his negligent operation of a motor vehicle.

2. This act shall take effect immediately and shall apply to all causes of action arising on or after the effective date.

Approved August 17, 1987.

CHAPTER 240

AN ACT concerning farmland preservation, amending the title and body of P.L. 1981, c. 276, 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*:

Title amended.

1. The title of P.L. 1981, c. 276 is amended to read as follows:

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 \$50,000,000.00 for the purchase of fee simple absolute titles to farmland which shall

be offered for resale with agricultural deed restrictions, the purchase of development easements on farmland or the provision of State matching funds for soil and water conservation projects; providing the ways and means to pay the interest of 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.

2. Section 2 of P.L. 1981, c. 276 is amended to read as follows:

2. The Legislature finds and declares that:

a. The development of agriculture and the retention of farmland are important to the present and future economy of the State and the welfare of the citizens of the State. The future of agriculture has been threatened by suburban development of the State's prime farmland. This process has resulted in significant direct loss of agricultural land, idled many intervening acres, led to conflicts between suburban and agricultural uses, jeopardized the farmers' right to farm, and frequently discouraged new agricultural investment.

b. The future of agriculture will be determined by economic factors such as the capability to compete with all domestic and international productive areas. A primary factor in production efficiency for agriculture is long term planning in the management of soil and water resources and capital investments. The planning can only be accomplished where profitability and operating stability exist at motivating levels.

c. Capital investment by the State through the issuance of bonds is necessary and desirable to purchase fee simple absolute titles to farmland for the purpose of offering the farmland for resale with agricultural deed restrictions, to acquire, in cooperation with counties and municipalities, development easements on farmland that the same may be retained in economically viable agricultural production and to assist through cost-sharing programs the long term development and management of farmland and the State's natural resources through soil and water conservation projects and programs.

3. Section 3 of P.L. 1981, c. 276 is amended to read as follows:

3. As used in this act:

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

b. "Cost" as used with respect to cost of fee simple absolute titles,

development easements or soil and water conservation projects, as defined herein, includes interest or discount on bonds; cost of issuance of bonds; the cost of inspection, appraisal, legal, financial, and other professional services, estimates and advice; and the cost of organizational, administrative and other work and services, including salaries, supplies, equipment and materials necessary to administer this act;

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

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

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

f. "Fund" means the "Farmland Preservation Fund" created pursuant to section 14 of this act;

g. "Secretary" means the Secretary of Agriculture;

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

4. Section 5 of P.L. 1981, c. 276 is amended to read as follows:

5. Bonds of the State of New Jersey in the aggregate amount of \$50,000,000.00 are authorized for the purpose of the preservation of

farmland for agricultural use and production. The proceeds from the sale of the bonds shall be deposited in a special fund to be designated the "Farmland Preservation Fund" for appropriation to the Department of Agriculture to provide grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements, to provide funds to the State Agriculture Development Committee, established pursuant to section 4 of P.L. 1983, c. 31 (C. 4:1C-4), for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines and for fee simple absolute titles to farmland which shall be offered for resale with agricultural deed restrictions, or to provide grants to landowners for up to 50% of the cost of soil and water conservation projects. All acquisitions or grants made pursuant to this act shall be with respect to land devoted to farmland preservation under programs established, subsequent to the effective date of this act, by a board, committee, or other public body specifically authorized by law to do so. Moneys from the resale of farmland purchased with moneys from the fund shall be returned to the fund.

5. 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, 1987, 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 that 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 said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following:

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

If you disapprove 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 such markings respectively.

	Yes.	USE OF 1981 FARMLAND PRESERVATION BOND MONEYS FOR PURCHASE OF FARMLAND AND DEVELOPMENT EASEMENTS ON FARMLAND FOR PRESERVATION PURPOSES Shall the amendments to the "Farmland Preservation Bond Act of 1981," (P.L. 1981, c. 276), authorizing the State Agriculture Development Committee to use farmland preservation bond moneys to purchase fee simple absolute titles to farmland for resale with agricultural deed restrictions for farmland preservation purposes and to increase the proportion of the purchase costs of farmland development easements on which preservation bond moneys may be spent from 50% to 80% generally and 100% under emergency conditions, be approved?
	No.	INTERPRETIVE STATEMENT Approval of these amendments would provide authorization for an additional use of the 1981 Farmland Preservation Bond moneys by permitting the State Agriculture Development Committee to purchase fee simple absolute titles to farmland for the purpose of preservation of farmland for agricultural use and production and to increase the maximum proportion of the purchase costs of farmland development easements on which preservation bond moneys may be spent from 50% to 80% generally and 100% under emergency conditions.

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 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.

6. 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 5 of this act.

7. This section and sections 5 and 6 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 5 hereof.

Approved August 17, 1987.

CHAPTER 241

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, veterinary, 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, veterinarian, chiropractor, pharmacist, nurse, dietitian or licensed administrator and a patient or, in the case of a veterinarian, the patient's owner, concerning the diagnosis, treatment or care of such patient or the fees or charges therefor, (b) a physician, dentist, podiatrist, optometrist, psychologist, veterinarian, chiropractor, pharmacist, nurse, dietitian or licensed administrator and a provider of medical, dental, podiatric, veterinary, optometric, psychological, or pharmaceutical benefits concerning any medical or health charges or fees of such physician, dentist, podiatrist, optometrist, psychologist, veterinarian, chiropractor, pharmacist, nurse, dietitian or licensed administrator, or (c) physicians, dentists, podiatrists, optometrists, psychologists, veterinarians, 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 August 19, 1987.

CHAPTER 242

AN ACT concerning the labeling of certain agricultural seeds and amending P.L. 1963, c. 29.

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

1. Section 3 of P.L. 1963, c. 29 (C. 4:8-17.15) is amended to read as follows:

C. 4:8-17.15 Seed container labels.

3. Each container of agricultural, vegetable, flower, tree and shrub seeds which is sold, offered for sale, or exposed for sale, or transported within this State for sowing purposes shall bear thereon or have attached thereto or in a conspicuous place on the exterior of the container a plainly written or printed label or tag in the English language, in legible type or in script specifying:

(a) For all seeds:

(1) The name and address of the person who labeled said seed, or who sells, offers for sale, exposes for sale within this State.

(b) For agricultural seeds (except for lawn and turf seed as provided in (c)):

(1) Commonly accepted name, in the order of its predominance, of the kind or kind and variety, of each agricultural seed component in excess of 5% of the whole, and the percentage by weight of each, provided that, if the variety of those kinds labeled as to variety in rules and regulations of this State or the federal government is not stated on the label, the label shall show the name of the kind and the words, "Variety Not Stated." Hybrids shall be labeled as hybrids. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(2) Lot number or other lot identification.

(3) Origin (state or foreign country), if known, of alfalfa, red clover and field corn (except hybrid corn). If the origin is unknown, the fact shall be stated.

(4) Percentage by weight of all weed seeds.

(5) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.

(6) Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed:

(A) Percentage of germination, exclusive of hard seed.

(B) Percentage of hard seeds, if present.

(C) The calendar month and year the test was completed to determine such percentage. Following (A) and (B) the "total germination and hard seed" may be stated as such, if desired.

(9) For seeds placed in a germination medium, mat, tape or other device in such a way as to make it difficult to determine the quantity of seed without removing it from the medium, mat, tape or device, the minimum number of seeds per square foot shall be indicated.

(c) For lawn and turf seed and mixtures of that seed:

(1) The commonly accepted name of the kind or kind and variety, or both, of each agricultural seed component in excess of 5.0% of the whole and the percentage by weight of pure seed of each.

(A) For mixtures the word "mixed" or "mixture" shall be stated with the name of the mixture on the principal display panels; and

(B) For mixtures, all components shall be listed in the order of their predominance and in columnar form. Percentages shall be listed under headings "Pure Seed" and "Germination or Germ."

(2) Percentage by weight of all agricultural seed except those required to be named on the label and which shall be designated "crop seed." If the mixture contains no other crop seed, the following statement may be used on the label "Contains No Other Crop Seeds."

(3) Percentage by weight of all weed seeds. Maximum weed seed content shall not exceed 1% by weight.

(4) Percentage by weight of inert matter shall not exceed 15% by weight. Foreign material not common to grass seed shall not be added.

(5) Lot number or other lot identification.

(6) Name and rate of occurrence per pound of each kind of restricted noxious weed seed present listed under the heading "Noxious Weed Seeds," or "Undesirable Grass Seeds" or as otherwise specified by rule or regulation adopted by the State Board of Agriculture.

(7) The percentage of germination, exclusive of hard seed; hard seed, if present, and the calendar month and year that the germination test was completed. If a single test date is used, it shall be that of the oldest tested component.

(8) Net weight.

(d) For vegetable seeds in containers of one pound or less:

(1) Name of kind and variety of seed.

(2) For seeds which germinate more than the standard last established by the rules and regulations under this act:

(A) The year for which packaged or put up, provided that the words "packed for" shall precede the year, or the percentage of germination and the month and year the test was completed to determine such percentage.

(3) For seeds which germinate less than the standard last established by the rules and regulations under this act:

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed if present;

(C) The calendar month and year the test was completed to determine such percentages;

(D) The words "below standard" in not less than 8-point type.

(4) For seeds placed in a germination medium, mat, tape or other device in such a way to make it difficult to determine the quantity of seed without removing it the label must bear a statement to indicate the minimum number of seeds in the container.

(5) Lot identification, such as by lot number or other means.

(6) For seeds without an established germination standard in the rules and regulations promulgated under the New Jersey State Seed Law (Revision of 1963), P.L. 1963, c. 29 (C. 4:8-17.13 et seq.):

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present; and

(C) The calendar month and year the test was completed to determine the percentages.

(e) For vegetable seeds in containers of more than one pound:

(1) The name of each kind and variety present in excess of 5% and the percentage by weight of each.

(2) Lot number or other lot identification.

(3) For each named vegetable seed:

(A) The percentage of germination, exclusive of hard seed;

(B) The percentage of hard seed if present;

(C) The calendar month and year the test was completed to determine such percentages.

Following (A) and (B) the "total germination and hard seed" may be stated as such if desired.

(4) The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

(f) For flower seeds in containers intended for use in home gardens or household planting or in preplanted containers, mats, tapes, or other planting devices:

(1) For all kinds of flower seeds:

(A) The name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules and regulations promulgated under the provisions of this act;

(B) The calendar month and year seed was tested or the year for which the seed was packaged; and

(C) The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this State.

(2) For seeds of those kinds for which standard testing procedures are prescribed and which germinate less than the germination standard last established under the rules and regulations of this act:

(A) The percentage of germination exclusive of hard seed;

(B) The words "below standard" in not less than 8-point type.

(3) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(4) For seeds without an established germination standard in the rules and regulations under the New Jersey Seed Law (Revision of 1963), P.L. 1963, c. 29 (C. 4:8-17.13 et seq.):

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present; and

(C) The calendar month and year the test was completed to determine the percentages.

(g) For flower seeds in containers other than those intended for use in home gardens or household planting, preplanted containers, mats, tapes, or other planting devices as described in the rules and regulations:

(1) The name of the kind and variety or a statement of type and performance characteristics as prescribed in rules and regulations promulgated under the provisions of this act;

(2) The lot number or other lot identification;

(3) The calendar month and year that the seed was tested;

(4) The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this State; and

(5) For those kinds of seeds for which standard testing procedures are prescribed by the rules and regulations:

(A) The percentage of germination exclusive of hard seed;

(B) The percentage of hard seed, if present.

(h) For agricultural seeds that are coated:

(1) Percentage of pure seeds with coating material removed.

(2) Percentage of coating material shall be shown as a separate item in close association with the percentage of inert matter.

(3) Percentage of germination shall be determined on 400 pellets with or without seeds.

(4) In addition to the provisions of this subsection, labeling of agricultural seeds that are coated shall comply with the requirements of subsections (a), (b) and (c) of this section.

(i) For tree and shrub seeds:

(1) Common name of the species of seed, and, if appropriate the subspecies.

(2) The scientific name of the genus and species and, if appropriate, the subspecies.

(3) Lot number or other lot identification.

(4) Origin:

(A) For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or political subdivision such as state or county; and

(B) For seed collected from other than a predominantly indigenous stand, the area of collection and the origin of the stand or state "Origin Not Indigenous."

(5) The elevation of the upper and lower limits of elevations within which the seed was collected.

(6) Purity as a percentage of pure seed by weight.

(7) For those species for which standard germination testing procedures are prescribed by the State Seed Analyst, the following:

(A) Percentage germination exclusive of hard seed;

(B) Percentage of hard seed, if present; and

(C) The calendar month and year the test was completed to determine the percentages.

In lieu of the provisions of subparagraphs (A), (B), and (C) of this paragraph, the seed may be labeled, if appropriate, "Test is in process, results will be supplied upon request."

(8) For those species for which standard germination testing procedures have not been prescribed by the State Seed Analyst the calendar year in which the seed was collected.

2. This act shall take effect immediately.

Approved August 19, 1987.

CHAPTER 243

AN ACT concerning the Public Guardian for Elderly Adults and amending P.L. 1985, c. 298.

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

1. Section 6 of P.L. 1985, c. 298 (C. 52:27G-25) is amended to read as follows:

C. 52:27G-25 Powers, duties of public guardian.

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;

j. Shall appoint and employ, notwithstanding the provisions of P.L. 1944, c. 20 (C. 52:17A-1 et seq.), a general counsel and such other attorneys or counsel as the public guardian may require, for the purpose, among other things, of providing legal advice on such matters as the public guardian may from time to time require, of attending to and dealing with all litigation, controversies, and legal matters in which the public guardian or any ward of the public guardian may be a party or in which these rights and interests may be involved, and of representing the public guardian and any ward in all proceedings or actions of any kind which may be brought for or against them in any court of this State. With respect to all of the foregoing, the counsel and attorneys shall be independent of any supervision or control by the Attorney General or by the Department of Law and Public Safety, or by any division or officer thereof.

2. This act shall take effect immediately.

Approved August 19, 1987.

CHAPTER 244

AN ACT assuring the option for anatomical gifts, supplementing P.L. 1969, c. 161 (C. 26:6-57 et seq.) and making an appropriation therefor.

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

C. 26:6-58.1 Anatomical gift consent by relative.

1. a. When the decision has been made in a hospital to pronounce the death of a person who, based on accepted medical standards, is a suitable candidate for organ donation, the person in charge of the hospital, or that person's designated representative, other than a person connected with the determination of death, shall make known to any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class specified in paragraph (1), (2), (3), (4), (5) or (6) of this subsection, or when there is any other reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, that the person has the option to consent to the gift of all or any part of the decedent's body for any purpose specified in section 3 of P.L. 1969, c. 161 (C. 26:6-59):

- (1) the spouse,
- (2) an adult son or daughter,
- (3) either parent,
- (4) an adult brother or sister,
- (5) a guardian of the person of the decedent at the time of the decedent's death, or
- (6) any other person authorized or under the obligation to dispose of the body.

Consent or refusal need only be obtained from a person in the highest priority class available.

b. The person in charge of the hospital or that person's designated representative shall complete a certificate of organ donation option for an anatomical gift, on a form supplied by the Commissioner of Health. The certificate shall include a statement that the option for consent to an anatomical gift has been made known, and shall further indicate thereupon whether or not consent was granted, the name

of the person granting or refusing the consent, and that person's relationship to the decedent. The death certificate required by R.S. 26:6-5.1 shall not be deemed complete unless a completed organ donation option certificate is attached thereto.

c. A gift made pursuant to the request required by this act shall be executed pursuant to the applicable provisions of P.L. 1969, c. 161 (C. 26:6-57 et seq.).

d. A person who acts in good faith in accordance with the provisions of this act is not liable for any damages in any civil action or subject to prosecution in any criminal proceeding for any act or omission of the person.

C. 26:6-58.2 Public awareness program; reciprocity agreements.

2. The Commissioner of Health shall establish a program to be administered by hospitals and other public and private agencies that are involved in the acquisition and distribution of human tissue and human organs to:

a. Increase public awareness of the provisions of this act regarding the acquisition and distribution of human tissue and human organs; and

b. Investigate the methods used by other states for the acquisition and distribution of human tissue and human organs, reciprocity agreements established between other states, and the development of similar agreements between New Jersey and other states.

C. 26:6-58.3 Rules, regulations.

3. In accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) the commissioner, in consultation with professionals involved in organ transplants, shall adopt such rules and regulations as are necessary to effectuate the purposes of this act including, but not limited to, regulations concerning the training of hospital employees who may be designated to perform the request, the procedure to be employed in making the request, and where, based on medical criteria, the request would not yield a donation which would be suitable for use, the commissioner may, by regulation, authorize an exception to the request required by section 1 of this act.

4. There is appropriated \$35,000.00 from the General Fund to the Department of Health to implement the provisions of this act.

5. This act shall take effect on the 90th day following enactment.

Approved August 19, 1987.

CHAPTER 245

AN ACT appropriating \$8,195,000.00 from the "Jobs, Science and Technology Bond Act of 1984" for the purpose of establishing and constructing research facilities for advanced technology centers.

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

1. There is appropriated to the New Jersey Commission on Science and Technology, established pursuant to P.L. 1985, c. 102 (C. 52:9X-1 et seq.), from the "Jobs, Science and Technology Fund" created pursuant to the "Jobs, Science and Technology Bond Act of 1984," P.L. 1984, c. 99, the sum of \$8,195,000.00 for the purpose of establishing and constructing advanced technology centers. This sum shall be allocated as follows:

a. \$8,145,000.00 for the planning, design and construction of advanced technology centers as follows:

(1) Center for Computer Aids for Industrial Productivity, for research in the field of telematics, to be located on the Rutgers/Busch Campus (Rutgers, The State University, sponsor)	\$4,720,000
(2) Fiber Optic Materials Research Program, to be located adjacent to the Center for Ceramics Research on the Rutgers/Busch Campus (Rutgers, The State University, sponsor)	3,000,000
(3) Center for Advanced Biotechnology and Medicine, to be located between the campuses of the University of Medicine and Dentistry of New Jersey and Rutgers in Piscataway (Rutgers, The State University and UMDNJ, sponsors)	425,000

b. \$50,000.00 for professional services to the New Jersey Commission on Science and Technology for planning and design studies for the advanced technology centers.

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

3. In order to provide flexibility in administering this act, the New Jersey Commission on Science and Technology may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer funds from any item to any other item in this act. Upon the approval of an application by the director and by the Joint Budget Oversight Committee, or its successor, in writing, the director shall make the transfer as provided by law.

4. This act shall take effect immediately.

Approved August 19, 1987.

CHAPTER 246

AN ACT concerning facilities for the physically handicapped in public buildings, and amending P.L. 1971, c. 269 and P.L. 1975, c. 220.

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

1. Section 2 of P.L. 1971, c. 269 (C. 52:32-5) is amended to read as follows:

C. 52:32-5 Facilities for physically handicapped.

2. The Department of Community Affairs shall promulgate regulations which shall prescribe the kinds, types and quality of such facilities for the physically handicapped. The regulations shall differentiate between small buildings, defined as those with a total gross enclosed floor area of less than 10,000 square feet, and large buildings defined as those with a total gross enclosed floor area of 10,000 square feet or more. Small buildings shall be required to have accessible entrances servicing the first or ground floor areas and facilities for the physically handicapped on all accessible floors, however, the provisions for small buildings shall not apply to the conversion of a small building to another use or to renovations or modifications of a small building if there is insufficient space between the building and its lot lines or between the building and the public way to allow for the installation of an entrance ramp which meets the criteria of the "State Uniform Construction Code" adopted pursuant to the "State Uniform Construction Code Act," P.L. 1975, c. 217 (C. 52:27D-119 et seq.). Large buildings shall be required to have accessible entrances, facilities for the physically handicapped on all

accessible floors, and elevators or other means of access for the physically handicapped between floors, except floors which contain only mechanical equipment or floors which contain less than 3,000 square feet of total floor area.

2. Section 3 of P.L. 1975, c. 220 (C. 52:32-6) is amended to read as follows:

C. 52:32-6 Definitions.

3. As used in this act:

a. "Public building" means any building, structure, facility or complex used by the general public, including, but not limited to, theaters, concert halls, auditoriums, museums, schools, libraries, recreation facilities, public transportation terminals and stations, factories, office buildings, business establishments, passenger vehicle service stations, shopping centers, hotels or motels, and public eating places, constructed by any State, county or municipal government agency or instrumentality or any private individual, partnership, association or corporation, with the following exceptions: one- to four-family private residences; warehouse storage areas; and all buildings classified as hazardous occupancies. As used herein, "hazardous occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive material, or which has inherent characteristics that constitute a special fire hazard.

b. "Physical handicap" 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. "Remodel" means, with respect to an existing public building as defined in this act, to construct an addition, alter the design or layout of said public building so that a change or modification of the entrance facilities, toilet facilities, or vertical access facilities is achieved, or make substantial repairs or alterations.

d. "Office building" means a building or structure which is used for the transaction of business; for the rendering of professional service; for other services that involve stocks of goods, wares, or merchandise in limited quantities for use incidental to office uses or sample purposes; or for display and sale purposes involving stocks

of goods, wares, or merchandise incidental to these purposes. This definition is intended to include those buildings or structures classified in Use Groups "B" and "M" of the State Uniform Construction Code within the scope of section 5:23-3.14 of the New Jersey Administrative Code pertaining to building subcodes.

e. (Deleted by amendment, P.L. 1981, c. 35.)

f. "Enforcing agency" means the municipal construction official and subcode officials provided for in the "State Uniform Construction Code Act" (P.L. 1975, c. 217; C. 52:27D-119 et seq.).

3. This act shall take effect on the 180th day following enactment.

Approved August 25, 1987.

CHAPTER 247

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 within and 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 August 25, 1987.

CHAPTER 248

AN ACT concerning certain notification requirements relating to the establishment and maintenance of a pedestrian mall facility or special improvement district, and amending P.L. 1972, c. 134.

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

1. Section 7 of P.L. 1972, c. 134 (C. 40:56-71) is amended to read as follows:

C. 40:56-71 Mall, special district ordinances.

7. Upon review of the reports and recommendations submitted, an ordinance may be adopted authorizing and directing the establishment and maintenance of a pedestrian mall facility or special improvement district. In addition to other requirements for the consideration and adoption of ordinances, at least 10 days prior to the date fixed for a public hearing thereon, a copy of the proposed ordinance and notice of the date, time and place of the hearing shall be mailed to the owners of the lots or parcels of land abutting or directly affected by any proposed pedestrian mall or included in the special improvement district proposed by the ordinance, as the case may be.

In the case of a special improvement district, the ordinance may include the requirement that construction or alteration of building and structure facades be subject to prior review and approval to assure compliance with design criteria included in the ordinance. The design criteria shall be approved by the municipal planning board prior to inclusion in the ordinance. A municipal officer or agency shall be designated by ordinance to conduct the review and grant or deny approvals of proposed construction or alteration of facades. In lieu of that designation, the governing body may designate the district management corporation to conduct these reviews and grant or deny these approvals, but only if the governing body finds in the ordinance that the corporation is so constituted and organized as to be reasonably appropriate and qualified for this role. If the district management corporation is so designated, the ordinance may provide for the appeal of individual determinations of the corporation to the municipal planning board.

2. This act shall take effect immediately.

Approved August 25, 1987.

CHAPTER 249

A SUPPLEMENT to "An act to limit and regulate child labor in this State; to provide for examinations and inspections under the provisions of this act; to provide for the enforcement of this act and regulations made thereunder; to prescribe penalties for the violation thereof; and to repeal other acts," approved June 25, 1940 (P.L. 1940, c. 153; C. 34:2-21.1 et seq.).

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

C.34:2-21.17b Minors as recycling center volunteers.

1. Concurrent with all other provisions of P.L. 1940, c. 153 (C. 34:2-21.1 et seq.), minors who are 12 through 17 years of age shall be permitted to work as volunteers at community operated noncommercial recycling centers operated by a municipality or a community service organization authorized by a municipality to operate a recycling center subject to the following provisions:

- a. That these recycling centers handle only those waste products normally included in the municipal waste stream such as newspapers and glass and metal beverage containers;
- b. That under no circumstances shall a minor be permitted to work in a community recycling center that is in any way associated with a profit making commercial enterprise other than to sell the recyclable products referred to in subsection a.;
- c. That no minor shall operate, perform maintenance, clean, inspect or work in, about, or in connection with any power driven machinery involved in the recycling process;
- d. That no minor shall work in a community recycling center without the safety equipment required by law;
- e. That no minor shall be permitted to work as a volunteer at a recycling center except under the direct supervision of an adult;
- f. That no minor shall handle or be exposed to hazardous waste products or other hazardous substances; and
- g. That the municipality which operates the center or authorizes the operation of the center by a community service organization has secured adequate liability insurance to provide compensation for all injuries sustained by minors working voluntarily at the center.

For the purposes of this section, "community operated noncommercial recycling center" means any recycling center that is sponsored by a municipality and is engaged in the recycling activity as a community service.

C. 34:2-21.17c Not deemed employees.

2. A minor working voluntarily at a recycling center shall not be deemed an employee under R.S. 34:15-36. A municipality or community service organization which uses the services of a minor under this act shall not be subject to R.S. 34:15-10, provided that the municipality or organization has fully complied with P.L. 1940, c. 153 (C. 34:2-21.1 et seq.) and the provisions of this act.

3. This act shall take effect immediately.

Approved August 25, 1987.

CHAPTER 250

AN ACT providing workers' compensation benefits to certain claimants insured under the federal Longshore and Harbor Workers' Compensation Act, 44 Stat. 1424 (33 U.S.C. §901 et seq.), whose carriers are insolvent and amending R.S. 34:15-104, R.S. 34:15-105, R.S. 34:15-106, R.S. 34:15-108, R.S. 34:15-111, R.S. 34:15-112, R.S. 34:15-113, and R.S. 34:15-115.

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

1. R.S. 34:15-104 is amended to read as follows:

Definitions.

34:15-104. Definitions. As used in this article, unless the context or subject matter otherwise requires:

"Stock fund" means the stock workers' compensation security fund created by this article.

"Mutual fund" means the mutual workers' compensation security fund created by this article.

"Funds" means the stock fund and the mutual fund.

"Fund" means either the stock fund or the mutual fund as the context may require.

"Fund year" means the calendar year.

"Stock carrier" means any stock corporation authorized to transact the business of workers' compensation insurance in this State, except an insolvent stock carrier.

"Mutual carrier" means any corporation or association organized and operating on the mutual plan, authorized to transact the business of workers' compensation insurance in this State, except an insolvent mutual carrier.

"Carrier" means either a stock carrier or a mutual carrier, as the context may require.

"Insolvent stock carrier" or "insolvent mutual carrier" means a stock carrier or a mutual carrier, as the case may be, which has been determined to be insolvent, or for which or for the assets of which a receiver has been appointed by a court or public officer of competent jurisdiction and authority.

“Compensation,” “benefits,” “death benefits,” and “payments of losses” means payments with respect to the injury or death of workers under this chapter, R.S. 34:15-1 et seq., or the federal “Longshore and Harbor Workers’ Compensation Act,” 44 Stat. 1424 (33 U.S.C. §901 et seq.), arising from coverage of risks located or resident in this State.

“Compensation rate” means the rate of compensation provided by the workers’ compensation act, R.S. 34:15-1 et seq.

2. R.S. 34:15-105 is amended to read as follows:

Stock workers’ compensation security fund.

34:15-105. There is hereby created a fund to be known as “the stock workers’ compensation security fund,” for the purpose of assuring to persons entitled thereto the compensation provided by this chapter, R.S. 34:15-1 et seq., or the federal “Longshore and Harbor Workers’ Compensation Act,” 44 Stat. 1424 (33 U.S.C. §901 et seq.), or both for employments insured in insolvent stock carriers and for the purpose of providing money for first year annual adjustments for benefit payments and supplemental payments during fiscal years 1984 and 1985 provided for by this 1980 amendatory and supplementary act. Such fund shall be applicable to the payment of valid claims for compensation or death benefits heretofore or hereafter made pursuant to this chapter or the federal “Longshore and Harbor Workers’ Compensation Act,” 44 Stat. 1424 (33 U.S.C. §901 et seq.), and remaining unpaid, in whole or in part, by reason of the default, after March 26, 1935, of an insolvent stock carrier. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by stock carriers, as herein defined, all property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested as herein provided. The fund shall be administered by the Commissioner of Insurance in accordance with the provisions of this chapter.

Compensation pursuant to the federal “Longshore and Harbor Workers’ Compensation Act,” 44 Stat. 1424 (33 U.S.C. §901 et seq.), shall be payable under this article only with respect to coverage or risks located or resident in this State. The insolvency, bankruptcy, or dissolution of the insured shall effect a termination of compensation provided under this article for claims arising under the federal “Longshore and Harbor Workers’ Compensation Act,” 44 Stat. 1424 (33 U.S.C. §901 et seq.).

3. R.S. 34:15-106 is amended to read as follows:

Returns by stock carriers; "net written premiums," defined.

34:15-106. Returns by stock carriers; "net written premiums," defined. Every stock carrier shall, on or before September 1, 1935, file with State Treasurer and with the Commissioner of Insurance identical returns, under oath, on a form to be prescribed and furnished by the commissioner, stating the amount of net written premiums for the six months' period ending June 30, 1935, on policies issued, renewed or extended by such carrier, to insure payment of compensation pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), as authorized by this article. For the purposes of this article "net written premiums" shall mean gross written premiums less return premiums on policies returned not taken, and on policies canceled. Thereafter, on or before the first day of March and September of each year, each such carrier shall file similar identical returns, stating the amount of such net written premiums for the six months' period ending, respectively, on the preceding December 31st and June 30th, on policies issued, renewed or extended by such carrier.

4. R.S. 34:15-108 is amended to read as follows:

Stock fund contributions.

34:15-108. When the aggregate amount of all such payments into the stock fund, together with accumulated interest thereon, less all its expenditures and known liabilities, becomes equal to 5% of the loss reserves of all stock carriers for the payment of benefits under this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), as authorized by this article as of December 31, next preceding, no further contributions to the fund shall be required to be made. But whenever thereafter, the amount of the fund shall be reduced below 5% of such loss reserves as of said date by reason of payments from and known liabilities of the fund, then contributions to the fund may be resumed forthwith pursuant to regulations of the Commissioner of Insurance, and may continue until the fund, over and above its known liabilities, shall be equal to not less than 3% nor more than 5% of such reserves.

The Commissioner of Insurance may by regulation provide that the amount of the stock fund may fluctuate between 3% and 5% of loss reserves of all stock carriers whenever he finds it to be in the best interest of the fund or advisable for its proper administration; except that no regulation shall require a stock carrier to make an additional

contribution to the stock fund during the 12 month period following the effective date of this amendatory and supplementary act.

5. R.S. 34:15-111 is amended to read as follows:

Payment of claims on application therefor; fund may recover against insurance carrier but not from employer.

34:15-111. Payment of claims on application therefor; fund may recover against insurance carrier but not from employer. A valid claim for compensation or death benefits, or installments thereof, heretofore or hereafter made pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), as authorized by this article, which has remained or shall remain due and unpaid for 60 days, by reason of default by an insolvent stock carrier, shall be paid from the stock fund in the manner provided in this section. Any person in interest may file with the Commissioner of Insurance an application for payment of compensation or death benefits from the stock fund on a form to be prescribed and furnished by the commissioner. If there has been an award, final or otherwise, a certified copy thereof shall accompany the application. Such commissioner shall thereupon certify to the State Treasurer such award for payment according to the terms of the same, whereupon payment shall be made by the State Treasurer.

Payment of compensation from the stock fund shall give the fund no right of recovery against the employer.

An employer may pay such award or part thereof in advance of payment from the stock fund and shall thereupon be subrogated to the rights of the employee or other party in interest against such fund to the extent of the amount so paid.

The State Treasurer as custodian of the stock fund shall be entitled to recover the sum of all liabilities of such insolvent carrier assumed by such fund from such carrier, its receiver, liquidator, rehabilitator or trustee in bankruptcy and may prosecute an action or other proceedings therefor. All moneys recovered in any such action or proceedings shall forthwith be placed to the credit of the stock fund by the State Treasurer to reimburse the stock fund to the extent of the moneys so recovered and paid.

6. R.S. 34:15-112 is amended to read as follows:

Mutual workers' compensation security fund.

34:15-112. There is hereby created a fund to be known as "the mutual workers' compensation security fund," for the purpose of

assuring to persons entitled thereto the compensation provided by the workers' compensation act, R.S. 34:15-1 et seq., or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), or both for employments insured in insolvent mutual carriers and for the purpose of providing money for first year annual adjustments for benefit payments and supplemental payments during fiscal years 1984 and 1985 provided for by this 1980 amendatory and supplementary act. Such fund shall be applicable to the payment of valid claims for compensation or death benefits heretofore or hereafter made pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), and remaining unpaid, in whole or in part, by reason of the default, after the effective date of this act, of an insolvent mutual carrier. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by mutual carriers, as herein defined, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested as herein provided. The fund shall be administered by the Commissioner of Insurance in accordance with the provisions of this article.

Compensation pursuant to the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), shall be payable only with respect to coverage of risks located or resident in this State. The insolvency, bankruptcy, or dissolution of the insured shall effect a termination of compensation provided under this article for claims arising under the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.).

7. R.S. 34:15-113 is amended to read as follows:

Returns by mutual carriers; "net written premiums," defined.

34:15-113. Returns by mutual carriers; "net written premiums," defined. Every mutual carrier shall, on or before September 1, 1935 file with the State Treasurer and with the Commissioner of Insurance identical returns under oath, on a form to be prescribed and furnished by the commissioner, stating the amount of net written premiums for the six months' period ending June 30, 1935, on policies issued, renewed or extended by such carrier, to insure payment of compensation pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.), as authorized by this article during said period. For the purpose of

this act "net written premiums" shall mean gross written premiums less return premiums on policies returned not taken and on policies canceled. Thereafter, on or before the first day of March and September, of each year, each such carrier shall file similar identical returns, stating the amount of such net written premiums for the six months' periods ending, respectively, on the preceding December 31st and June 30th, on such policies issued, renewed or extended by such carrier.

8. R.S. 34:15-115 is amended to read as follows:

Mutual fund contributions.

34:15-115. Whenever the mutual fund, less all its known liabilities, shall exceed 5% of the loss reserves of all mutual carriers for the payments of losses under this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et seq.) as authorized by this article, as of December 31 next preceding, no further contributions to the fund shall be required to be made. But whenever thereafter the amount of the fund shall be reduced below 5% of such loss reserves as of said date by reason of payments from and known liabilities of the fund, then contributions to the fund may be resumed forthwith pursuant to regulations of the Commissioner of Insurance, and shall continue until the fund, over and above its known liabilities, shall be equal to not less than 3% nor more than 5% of such reserves. The Commissioner of Insurance may by regulation provide that the amount of the mutual fund may fluctuate between 3% and 5% of loss reserves of all mutual carriers whenever he finds it to be in the best interest of the fund or advisable for its proper administration; except that no regulation shall require a mutual carrier to make an additional contribution to the mutual fund during the 12 month period following the effective date of this amendatory and supplementary act. If and when all liabilities of all mutual carriers for workers' compensation losses in this State shall have been fully liquidated, distribution shall be made of the remaining balance of the mutual fund in the proportion in which each such mutual carrier made contributions to the mutual fund.

9. This act shall take effect immediately, and shall apply to all claims arising as a result of a carrier having been adjudged insolvent by a court of competent jurisdiction on or after January 1, 1986.

Approved August 25, 1987.

CHAPTER 251

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID

10 DEPARTMENT OF AGRICULTURE

40 Community Development and Environmental Management

42 Natural Resource Management

03-3330 Resource Development

Services	\$260,000

Special Purpose:

A grant to the city of Beverly, Burlington
county, for a shoreline stabilization
project performed with the technical
assistance of the Resource
Conservation and Development
Program of the United States
Department of Agriculture's Soil
Conservation Service (\$260,000)

2. This act shall take effect immediately.

Approved August 27, 1987.

CHAPTER 252

AN ACT concerning children in placements outside of their home, amending P.L. 1984, c. 85, P.L. 1982, c. 24 and P.L. 1977, c. 424 and making an appropriation therefor.

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

1. Section 3 of P.L. 1977, c. 424 (C. 30:4C-52) is amended to read as follows:

C. 30:4C-52 Definitions.

3. As used in this act, unless the context indicates otherwise:

- a. "Child" means any person less than 18 years of age;
- b. "Child placed outside his home" means a child under the care, custody or guardianship of the division, who resides in a foster home, group home, residential treatment facility, shelter for the care of abused or neglected children or juveniles considered as juvenile-family crisis cases, or independent living arrangement operated by or approved for payment by the division, or a child who has been placed by the division in the home of a person who is not related to the child and does not receive any payment for the care of the child from the division, or a child placed by the court in juvenile-family crisis cases pursuant to P.L. 1982, c. 77 (C. 2A:4A-20 et seq.), but does not include a child placed by the court in the home of a person related to the child who does not receive any payment from the division for the care of the child;
- c. "County of supervision" means the county in which the division has established responsibility for supervision of the child;
- d. "Division" means the Division of Youth and Family Services in the Department of Human Services;
- e. "Temporary caretaker" means a foster parent as defined in section 1 of P.L. 1962, c. 136 (C. 30:4C-26.4) or a director of a group home or residential treatment facility;
- f. "Designated agency" means an agency designated by the court pursuant to P.L. 1982, c. 80 (C. 2A:4A-76 et seq.) to develop a family services plan.

2. Section 4 of P.L. 1977, c. 424 (C. 30:4C-53) is amended to read as follows:

C. 30:4C-53 Notice of placement.

4. Within five calendar days after the placement of a child outside his home pursuant to a voluntary agreement, the division or the designated agency, as the case may be, shall file notice of such placement with the family part of the Chancery Division of the Superior Court in the child's county of supervision. Such notice shall be in the form of a petition encaptioned "In the matter of, a minor" and shall include the date and type of placement and the reasons for such placement, which shall include the specific efforts to prevent the placement. Such filing shall establish a continuing jurisdiction of the court over the placement of the child.

The division shall also file immediate notice with the court of any change in placement and of the permanent placement or return home of the child. The court's jurisdiction shall cease upon receipt of such notification of the return home or alternative permanent placement of the child.

3. Section 5 of P.L. 1977, c. 424 (C. 30:4C-54) is amended to read as follows:

C. 30:4C-54 Court approval, disapproval of placement.

5. The court shall, within 15 days following receipt of the notice of the initial placement pursuant to a voluntary agreement, determine, based solely upon the petition and other affidavits and written materials submitted to the court, whether or not reasonable efforts have been made to prevent the placement and whether or not the continuation of the child in his home would be contrary to the welfare of the child, and either approve the placement or order the return of the child to his home, except that, lack of reasonable efforts to prevent placement shall not be the sole basis for the court's order of a return of the child to his home.

The court also may require the submission of supplementary material or schedule a summary hearing if:

- a. The court has before it conflicting statements of material fact;
 - b. The court determines that it is in the best interest of the child;
- or
- c. The child's parents or legal guardian requests the hearing.

The court shall provide written notice to the parties involved in the hearing at least five days prior to the hearing. The court shall provide written notice of the date, time and place of such hearing

to the parents or legal guardian of the child, the child or the child's counsel, the child's temporary caretaker, the division, and any other party the court deems appropriate.

4. Section 8 of P.L. 1977, c. 424 (C. 30:4C-57) is amended to read as follows:

C. 30:4C-57 Child placement review boards.

8. a. The assignment judge in each county shall establish as an arm of the family part of the Chancery Division of the Superior Court one or more child placement review boards. The number of review boards in each county shall be based on the number of reviews conducted in the previous calendar year, so that, where practicable, there shall be at least one review board for each 200 reviews. Each board shall consist of five members to be appointed by the judge from among the residents of such county. The judge also shall appoint to each board two alternate members, who shall serve as regular members when regular members are not present. Each member shall be a person who has either training, experience or interest in issues concerning child placement or child development. Each board shall, to the maximum extent feasible, represent the various socioeconomic, racial, and ethnic groups of the county in which it serves. The judge shall annually appoint one of the regular members of the board as chairperson.

Members shall be initially appointed for a provisional term of one year and may be reappointed for subsequent terms of three years. Alternate members shall fill any vacancy until a regular board member has been appointed. Alternate members may be appointed as regular members. The appointed member shall serve for the duration of the unexpired term or for a provisional term of one year, whichever is less. If a board member does not serve satisfactorily, the assignment judge may remove that member pursuant to standards developed by the Child Placement Advisory Council and the Administrative Office of the Courts. When a vacancy occurs, the judge shall appoint a new member within 30 days. Members shall serve without compensation but shall be reimbursed for such reasonable and necessary expenses, including but not limited to child care expenses incurred in the performance of their official duties. The governing body of the county in which the board serves may provide for reimbursement to review board members for such additional and reasonable expenses as the governing body may determine.

In accordance with guidelines and procedures established by the Supreme Court, members shall attend initial training sessions before

being sworn in as a regular member or as an alternate. A regular member or alternate member shall not serve until that person has completed the required training.

The assignment judge, in consultation with the family part judges and review board members, shall ensure that reviews are held at those times necessary to meet the requirements of P.L. 1977, c. 424 (C. 30:4C-50 et seq.) and court directives related thereto. The assignment judge shall ensure that each family part of the Chancery Division of the Superior Court shall provide its board with reasonable and necessary administrative and clerical support services to facilitate the operation of the board and to meet the requirements of P.L. 1977, c. 424 (C. 30:4C-50 et seq.) and any court directives related thereto. These services shall include, but are not limited to, obtaining and reviewing information requested by the board, preparing and dispatching all notices and reports required under P.L. 1977, c. 424 (C. 30:4C-50 et seq.), arranging for board meetings and maintaining a permanent record of all board proceedings, collecting statistical data and serving as a liaison to the division.

b. The assignment judge and family part judges, in consultation with the board in each county shall develop annually a county child placement review plan for the delivery of review services. The county plan shall be prepared in a format prescribed by the Administrative Office of the Courts and the Child Placement Advisory Council established pursuant to section 13 of P.L. 1977, c. 424 (C. 30:4C-62) and shall contain a budget and narrative for review services and identify resource needs for the county review system. The assignment judge is responsible for final county review and approval of the county plan and for forwarding the plan to the Child Placement Advisory Council and the Administrative Office of the Courts for their review. The budget contained in each county plan shall be part of the Judiciary budget submitted by the assignment judge to the freeholders or county executive.

The assignment judge shall report to the Administrative Office of the Courts and the Child Placement Advisory Council any significant variation in implementation of the county plan.

c. The board in each county, with the assistance of that county's child placement review coordinator, shall annually prepare a report which specifies issues, needs and service gaps affecting the children under review by the board and, where appropriate, make recommendations as to needed changes or services. The board shall submit the

report to the Child Placement Advisory Council established pursuant to section 13 of P.L. 1977, c. 424 (C. 30:4C-62) for review. The council may include the stated needs in its annual report to the Supreme Court, the Governor and the Legislature.

d. The Supreme Court may issue rules concerning the duties, responsibilities, training and practices of the boards consistent with the provisions of P.L. 1977, c. 424 (C. 30:4C-50 et seq.), but the minimum qualifications for a person employed as a county child placement review coordinator and hired after the effective date of P.L. 1987, c. 252, shall not be less than a bachelor's degree from an accredited institution of higher education and two years' experience working with children and their families and relevant training, knowledge or experience in working with volunteers.

5. Section 9 of P.L. 1977, c. 424 (C. 30:4C-58) is amended to read as follows:

C. 30:4C-58 Periodic reviews.

9. Each board shall act on behalf of the family part of the Chancery Division of the Superior Court in reviewing the case of every child placed outside his home pursuant to a voluntary agreement, to determine whether the best interests of the child are being served by such placement.

Each board shall also act on behalf of the family part of the Chancery Division of the Superior Court in reviewing the case of each child placed outside his home by the division in accordance with a court order pursuant to P.L. 1974, c. 119 (C. 9:6-8.21 et seq.), section 12 of P.L. 1951, c. 138 (C. 30:4C-12), section 24 of P.L. 1982, c. 77 (C. 2A:4A-43) or section 25 of P.L. 1982, c. 77 (C. 2A:4A-44). The division or designated agency shall submit to the board within 30 days of a child's placement, a placement plan prepared in accordance with the provisions of P.L. 1977, c. 424 (C. 30:4C-50 et seq.).

A board shall initiate a review of a placement pursuant to a voluntary agreement or in accordance with a court order within 45 days following the initial placement and shall complete the review within 15 days thereafter. A periodic review shall take place at least every 12 months thereafter.

The board may schedule additional reviews on its own motion, upon the request of any person listed in section 5 of P.L. 1977, c. 424 (C. 30:4C-54) or upon an order of the court.

Notwithstanding the provisions of section 3 of P.L. 1977, c. 424 (C. 30:4C-52) to the contrary, if a child placed outside his home attains 18 years of age or older and his out of home placement costs are being paid by the division, the board shall continue to conduct periodic reviews until the division terminates supervision.

All such reviews shall include, but not necessarily be limited to, the consideration and evaluation of such matters as:

- a. The appropriateness of the goal and objectives of the placement plan;
- b. The appropriateness of the services provided to the child, the parents or legal guardian and the temporary caretaker;
- c. Whether the child has siblings who are also placed outside of their home;
- d. Whether the wishes of the child were considered regarding placement and development of the placement plan, when appropriate;
- e. Whether the division, the parents or legal guardian and the temporary caretaker are fulfilling their respective responsibilities in accordance with the placement plan;
- f. Whether the parents or legal guardian have been afforded the opportunity and been encouraged to participate in a program of regular visitation with the child;
- g. Whether there are obstacles which hinder or prevent the attainment of the placement plan objectives and goal; and
- h. The circumstances surrounding the placement.

In the case of a child in placement outside of his home on the effective date of this act, the first review shall be completed as soon as possible, but not later than 12 months following such effective date.

6. Section 10 of P.L. 1982, c. 24 (C. 30:4C-58.1) is amended to read as follows:

C. 30:4C-58.1 Placement for adoption.

10. When a child is placed in a home for the purpose of adoption, the division shall notify the family part of the Chancery Division of the Superior Court in the child's county of supervision in writing of the placement. Upon receipt of the notice, the board shall not schedule further reviews of the case unless:

- a. The child is removed from the adoptive home;
- b. The complaint for adoption was not filed within eight months of the placement and the filing of the complaint is not imminent; or
- c. The plan for the child was modified so that immediate adoption by the stated adoptive parents no longer is the goal.

The division shall send the court and the board a status report on the case every four months. When a complaint for adoption has been filed, the division shall inform the court and no further board reviews shall be held while that action is pending.

When a judgment of adoption has been entered the court shall dismiss the complaint pursuant to section 4 of P.L. 1977, c. 424 (C. 30:4C-53).

If a child is placed in an adoptive home prior to the completion of the initial court review, the court shall retain jurisdiction to complete the review.

7. Section 10 of P.L. 1977, c. 424 (C. 30:4C-59) is amended to read as follows:

C. 30:4C-59 Advance notice of review.

10. Each board shall provide written notice of the date, time and place of each review at least 15 days in advance to the following, each of whom shall be entitled to attend the review and to submit information in writing to the board:

- a. The division or agency;
- b. The child;
- c. The parents including a non-custodial parent or legal guardian;
- d. The temporary caretaker;
- e. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child; and
- f. The counsel for a parent, child or other interested party who has provided or is providing representation in the case before the board.

The board may determine who may be in attendance at any particular portion of its meeting. Nothing herein shall be interpreted to exclude judges and court support staff from attending review board meetings.

The written notice shall inform the person of his right to attend the review and to submit written information and shall be prepared in a manner which will encourage the person's attendance at the review.

Notice to the child may be waived by the court on a case by case basis either on its own motion or on the petition of any of the above persons in cases where the court determines that notice would be harmful to the child. A waiver of notice to the child shall not waive the notice requirement to counsel for the child or other representatives of the child.

The review board may seek information from any agency which has been involved with the child, parents or legal guardian or temporary caretaker. If the agency fails to provide the requested information, the court may, upon the request of the board, issue a subpoena to the agency for the information.

The board shall conduct a review and make recommendations based upon the written materials; provided, however, that the board shall afford any party or person entitled to notice pursuant to this section a reasonable opportunity to appear and to present his views and recommendations. Upon the request of the board, the family part of the Chancery Division of the Superior Court may subpoena a person to attend the review board meeting.

A designated agency shall provide relevant and necessary information to the board regarding a child who is reviewed by the board.

8. Section 11 of P.L. 1977, c. 424 (C. 30:4C-60) is amended to read as follows:

C. 30:4C-60 Report; findings.

11. Within 10 days after the completion of such review, the board shall submit a written report to the family part of the Chancery Division of the Superior Court and the division. Such report shall offer one of the following findings, stating the specific reasons therefor:

a. That continued placement of the child outside of the home is not in the child's best interest and the child should be returned home within two weeks and that the division or designated agency, as appropriate, shall provide reasonable and available services which are necessary to implement the return home;

b. That continued placement outside of the home is in the child's best interest on a temporary basis until the long-term goal is achieved, which long-term goal is:

- (1) Return to the child's parents or legal guardian,
- (2) Adoption,
- (3) Permanent placement with a relative,
- (4) Long-term foster care,
- (5) Independent living, or
- (6) Institutionalization;

c. That continued placement outside of the home on a temporary basis is in the child's best interest, but that there is not sufficient information for the board to make a recommendation, therefore, the board requests the court to order the division or designated agency, as appropriate, to provide the needed information within two weeks of the court order.

d. (Deleted by amendment, P.L. 1987, c. 252.)

In addition to the finding, the board shall state in its report if the placement plan satisfies the criteria provided in section 9 of P.L. 1977, c. 424 (C. 30:4C-58) and if it does not, that the placement plan should be modified or a new plan should be developed.

When making its finding pursuant to this section, the board shall give priority to the goal of return to the child's parents or legal guardian unless that goal is not in the best interest of the child. If the return has not been achieved within one year, and after considering the family's efforts, the division's or designated agency's provision of reasonable and available services, or other relevant factors, the board shall recommend another permanent plan for the child which shall include permanent placement with a relative through adoption or legal custody or adoption by a non-relative. But, if return to a child's parents or legal guardian, permanent placement with a relative or adoption is not possible or is not in the best interest of the child, the board shall recommend an alternative long-term plan for the child.

In addition to the finding, the board shall state the reasons and additional factors it deems appropriate to explain its conclusions. When any change in the plan or situation of the child is recommend-

ed, the board shall state its specific recommendations and the factual basis therefor.

In accordance with section 8 of P.L. 1985, c. 85 (C. 30:4C-61.1), the board may recommend that the division shall not return a child to his home prior to a review by the board and an order of the court.

Within 10 days of the completion of its review, the board shall provide to those persons entitled to notice under section 10 of P.L. 1977, c. 424 (C. 30:4C-59) the specific finding made pursuant to this section, unless the board recommends that the finding shall not be provided to specific individuals as provided in this paragraph. The court may waive notice of findings to the child on a case-by-case basis on its own motion or on the petition of a person listed in section 10 of P.L. 1977, c. 424 (C. 30:4C-59) in cases where the court determines that the nature of the findings would be harmful to the child, or if notice to the child of review was waived. The court may waive notice of findings to persons included in subsection e. of section 10 of P.L. 1977, c. 424 (C. 30:4C-59) on the recommendation of the board or on the petition of other persons entitled to notice.

9. Section 12 of P.L. 1977, c. 424 (C. 30:4C-61) is amended to read as follows:

C. 30:4C-61 Court order.

12. a. Upon review of the board's report, the family part of the Chancery Division of the Superior Court shall issue an order concerning the child's placement which it deems will best serve the interests of the child. The court shall issue the order within 21 calendar days of the court's receipt of the board's report unless the court schedules a summary hearing. The court shall either:

(1) Order the return of the child to his parents or legal guardian within two weeks and order the division or designated agency, as appropriate, to provide any reasonable and available services which are necessary to implement the return home;

(2) Order continued placement on a temporary basis until the long-term goal is achieved; or

(3) Order continued placement on a temporary basis but that the division shall provide further information within two weeks to the court, which information shall be reviewed by the board within 30 days of its receipt.

(4) (Deleted by amendment, P.L. 1987, c. 252.)

In accordance with section 8 of P.L. 1984, c. 85 (C. 30:4C-61.1), the court may order that the division shall not return a child to his home prior to review by the board and an order of the court.

In addition, if the placement plan does not satisfy the criteria of section 9 of P.L. 1977, c. 424 (C. 30:4C-58), the court shall order that the placement plan be modified or that a new plan be developed within 30 days.

b. In reviewing the report, the court may request that, where available, any written or oral information submitted to the board be provided to the court. The court shall make a determination based upon the report and any other information before it; provided, however, that if:

(1) The court has before it conflicting statements of material fact which it cannot resolve without a hearing; or

(2) A party entitled to participate in the proceedings requests a hearing; or

(3) The court concludes that the interests of justice require that a hearing be held, the court may schedule a summary hearing.

c. Notice of such hearing, including a statement of the dispositional alternatives of the court, shall be provided at least 30 days in advance, unless the court finds that it is in the best interest of the child to provide less notice in order to conduct the hearing sooner. Notice shall be provided to the following persons unless the court determines it is not in the best interests of the child:

(1) The division;

(2) The child;

(3) The child's parents including a non-custodial parent or legal guardian;

(4) The review board;

(5) The temporary caretaker; and

(6) The counsel for any parent, child or other interested party who has provided or is providing representation in the case before the board.

The court may also request or order additional information from any other persons or agencies which the court determines have an interest in or information relating to the welfare of the child.

The court shall hold the hearing within 60 days of receipt of the board's report and shall issue its order within 15 days of the hearing.

d. The court shall send a copy of its order concerning the child's placement to all persons listed in subsection c. of this section, except that, if notice to the child of the board review was waived pursuant to section 10 of P.L. 1977, c. 424 (C. 30:4C-59), the court may waive the requirement of sending a copy of its order to the child.

e. Any person who receives a copy of the court order shall comply with the confidentiality requirements established by the Supreme Court for the purposes of this act.

10. Section 8 of P.L. 1984, c. 85 (C. 30:4C-61.1) is amended to read as follows:

C. 30:4C-61.1 Return to home.

8. a. If the division proposes to return a child home, although the return home is either prohibited by the placement plan approved by the court or expressly contingent upon certain conditions in the placement plan that have not been met, the division shall promptly notify the board and the court in writing.

b. The board shall conduct a special review within 15 days of receipt of the notice provided pursuant to subsection a. or f. of this section to consider and evaluate the reasons for the proposed action and determine whether the action serves the best interests of the child. The board shall provide written notice of the special review pursuant to section 10 of P.L. 1977, c. 424 (C. 30:4C-59), except that the 15-day advance notice requirement is waived. The board shall submit its report to the court pursuant to section 11 of P.L. 1977, c. 424 (C. 30:4C-60), except that the board shall submit the report within five days of completion of the special review.

c. The court shall review the board's recommendations within 10 days and issue an order within five days unless a summary hearing is scheduled concerning the child's placement pursuant to section 12 of P.L. 1977, c. 424 (C. 30:4C-61), except that if a party entitled to participate in the proceeding requests a hearing, the court shall hold a summary hearing within 15 days of receipt of the board's report unless the court determines that the request for the hearing is frivolous. The court shall issue its order within five days of the hearing.

d. The division shall not return the child home unless the court approves the division's proposed action and orders the return home of the child.

e. Notwithstanding the provisions of this section to the contrary, in an emergency situation, the court may waive the special review provisions of this section and approve the return home, upon the request of the division to do so. The request of the division for a court waiver of the special review provisions shall be accompanied by a written statement from the division declaring and finding that the out-of-home placement has been disrupted, that no appropriate alternative placement for the child can be found in the home of a relative, a foster home, group home, shelter, residential care facility or other setting following the change in placement, and that the return home will not endanger the health and welfare of the child. The written statement submitted with a request shall also outline the specific reasons for the findings made. The division shall conduct an on-site visit of the home of a child when in an emergency situation the division plans to request of the court a waiver of the special review provisions. A report of the on-site visit shall be included with the request.

If the court approves the division's request, the division shall promptly notify the board of the court's approval of the request. The board shall conduct a review of the change in the placement plan within 15 days of the date the child is returned home. The division shall conduct a minimum of two on-site visits to the home of a child returned there in an emergency situation within the first 10 days of the return to ascertain the continued health and welfare of the child. The court, upon granting a request for a waiver, may require additional on-site visits. A detailed written report of each on-site visit to the home of a child returned in an emergency situation shall promptly be submitted to the court and to the child placement review board.

Notwithstanding any other provisions of law to the contrary, the court shall retain jurisdiction over the placement of the child after a child has been returned home in an emergency situation for up to six months unless there is a subsequent court hearing or court order.

In any case where, following a court order for the implementation of a placement plan, the board determines upon re-review of the case that there has been insufficient effort on the part of the division or any other parties toward implementation of the court ordered plan, the board may petition the court for an order to show cause as to why the plan is not being implemented as ordered.

f. If, subsequent to the review and approval of a plan by the court, the division proposes to change the long-term goal in the plan or

otherwise substantially modify the plan, it shall notify the court and the board in writing, within five days. The board shall schedule review of the modification. The division shall continue to implement the current court ordered plan until the court orders a modified or new plan.

g. Nothing in this section is intended to limit the court's authority to exercise its regular remedies for enforcement of an order.

11. Section 13 of P.L. 1977, c. 424 (C. 30:4C-62) is amended to read as follows:

C. 30:4C-62 Child Placement Advisory Council.

13. There is hereby established a Child Placement Advisory Council to consist of one member from each of the child placement review boards to be selected annually by the chairman of each review board. The Director of the Administrative Office of the Courts and the council shall jointly develop a budget which shall provide the council with reasonable and necessary administrative and clerical support services adequate to enable the council to carry out its responsibilities and shall reimburse the members of the council for reasonable and necessary expenses incurred in the performance of their official duties.

The council shall have the authority, consistent with the funds appropriated to the Administrative Office of the Courts for the purposes of this act, to determine annually its program and budget. The council shall, in consultation with the Administrative Office of the Courts, develop guidelines for its annual programs and other aspects of this act.

It shall be the responsibility of the council to:

- a. Advise the Supreme Court with respect to the issuance of rules governing the duties, responsibilities and practices of the review boards;
- b. Review the policies, practices and procedures of the division with respect to the placement of children;
- c. Monitor and evaluate the effectiveness of this act in promoting the welfare of children placed outside their home. These activities may be carried out through the regular collection of data from each county, as well as through other appropriate means;
- d. Advise the Supreme Court with respect to the establishment of guidelines and procedures for the training of placement review board members;

e. Advise the Supreme Court with respect to the establishment of reporting procedures to be followed by the review boards for the provision of data for the evaluation of this act;

f. Make an annual report on the effectiveness of the implementation of this act to the Supreme Court, the Governor and the Legislature and such other reports as it may deem proper or as may be requested from time to time by the Supreme Court, the Governor or the Legislature; and

g. Review county plans and reports pursuant to section 8 of P.L. 1977, c. 424 (C. 30:4C-57).

12. There is appropriated from the General Fund to the Administrative Office of the Courts \$380,000.00, to be allocated for distribution among the counties according to a formula developed jointly by the Administrative Office of the Courts and the Child Placement Advisory Council. The funds allocated to the counties are for the purpose of enabling the counties to comply with the purposes of this act. The funds allocated to the counties shall be in addition to any county funds currently appropriated to implement this act and counties shall maintain current levels of expenditures in order to be eligible for State funds under this act.

13. This act shall take effect on July 1, 1987 or immediately, whichever date is later.

Approved August 27, 1987.

CHAPTER 253

AN ACT concerning State payment of costs incurred to conduct special elections, amending P.L. 1981, c. 429 and making an appropriation.

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

1. Section 7 of P.L. 1981, c. 429 (C. 19:45-1.1) is amended to read as follows:

C. 19:45-1.1 Expenses for special elections.

7. Notwithstanding the provisions in chapter 45 of Title 19 of the Revised Statutes to the contrary, the State shall pay all expenses

incurred by any of its political subdivisions in connection with any special election held for the purpose of filling a vacancy occurring in the Senate or General Assembly. When such a special election has been held, the Secretary of State shall notify all affected political subdivisions that the State shall pay all expenses incurred in connection with that election.

2. There is appropriated out of the General Fund to the Department of State the sum of \$500,000.00 for payments to the several political subdivisions for expenses incurred in connection with special elections to fill a vacant General Assembly seat in District number 5, a vacant General Assembly seat in District number 12, a vacant General Assembly seat in District number 23, a vacant Senate seat in District number 23 and a vacant Senate seat in District number 36.

3. This act shall take effect immediately.

Approved August 27, 1987.

CHAPTER 254

AN ACT exempting certain receipts from the sales of food from the sales and use tax, amending P.L. 1966, c. 30.

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

1. Section 2 of P.L. 1966, c. 30 (C. 54:32B-2) is amended to read as follows:

C. 54:32B-2 Definitions.

2. Definitions. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) Person. Person includes an individual, partnership, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Purchase at retail. A purchase by any person at a retail sale.

(c) Purchaser. A person who purchases property or who receives services.

(d) Receipt. The amount of the sales price of any property and the charge for any service taxable under this act, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, but excluding any credit for property of the same kind accepted in part payment and intended for resale, excluding the cost of transportation where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, and excluding the amount of the sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L. 95-113 (7 U.S.C. §2011 et seq.).

(e) Retail sale. (1) A sale of tangible personal property to any person for any purpose, other than (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, or (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

(2) For the purposes of this act, the term retail sales includes:

Sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

(3) The term retail sales does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the vendor.

(f) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) Tangible personal property. Corporeal personal property of any nature.

(h) Use. The exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation, any affixation to real or personal property, or any consumption of such property.

(i) Vendor. (1) The term "vendor" includes:

(A) A person making sales of tangible personal property or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(D) Any other person making sales to persons within the State of tangible personal property or services, the use of which is taxed

by this act, who may be authorized by the director to collect the tax imposed by this act; and

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the vendor, distributor, supervisor or employer under whom he operates or from whom he obtains tangible personal property sold by him or for whom he solicits business, the director may, in his discretion, treat such agent as the vendor jointly responsible with his principal, distributor, supervisor or employer for the collection and payment over of the tax.

(j) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(k) Occupancy. The use or possession or the right to the use or possession, of any room in a hotel.

(l) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) Permanent resident. Any occupant of any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(o) Admission charge. The amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) Amusement charge. Any admission charge, dues or charge of roof garden, cabaret or other similar place.

(q) Charge of a roof garden, cabaret or other similar place. Any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) Dramatic or musical arts admission charge. Any admission charge paid for admission to a theatre, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) Lessor. Any person who is the owner, licensee, or lessee of any premises or tangible personal property which he leases, subleases, or grants a license to use to other persons.

(t) Place of amusement. Any place where any facilities for entertainment, amusement, or sports are provided.

(u) Casual sale. Casual sale means an isolated or occasional sale of an item of tangible personal property by a person who is not regularly engaged in the business of making sales at retail where such property was obtained by the person making the sale, through purchase or otherwise, for his own use in this State.

(v) Motor vehicle. Motor vehicle shall include all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, housetrailer, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; and every operator of a hotel. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership; provided, however, the vendor of tangible personal property to all contractors, subcontractors or repairmen, consisting of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others, shall not be deemed a person required to collect tax, and the tax imposed by any section of this act shall be paid directly to the director by such contractors, subcontractors or repairmen.

(x) "Customer" shall include: every purchaser of tangible personal property or services; every patron paying or liable for the

payment of any amusement charge; and every occupant of a room or rooms in a hotel.

(y) "Property and services the use of which is subject to tax" shall include: (a) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; and (b) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property the use of which is subject to tax under section 6 or will become subject to tax when such property is received by or comes into possession or control of such person within the State.

(z) Director. Director means the Director of the Division of Taxation of the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

2. This act shall take effect immediately, but shall remain inoperative until the first day of the second month following enactment.

Approved August 27, 1987.

CHAPTER 255

AN ACT authorizing counties to establish county historical commissions to preserve historical buildings, prescribing the membership and powers of these commissions, and supplementing Title 40 of the Revised Statutes.

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

C. 40:33B-1 Short title.

1. This act shall be known and may be cited as the "County Historical Commission Act."

C. 40:33B-2 Findings, declarations.

2. The Legislature finds and declares that this generation is obligated to future generations to maintain our historical and cultural

heritage by preserving historic buildings which exemplify that heritage.

C. 40:33B-3 Definitions.

3. As used in this act:

a. "Commission" means a county historical commission established pursuant to this act.

b. "Historic building" means a building or complex of buildings significant to the history of the municipality, county, State or nation.

c. "Preserve an historic building" means to restore, reconstruct, renovate or maintain that building or otherwise to recreate or conserve the historical character and value thereof.

C. 40:33B-4 County historical commission.

4. a. The governing body of any county, by ordinance or resolution, as appropriate, may establish a county historical commission.

b. The commission shall consist of not fewer than five nor more than nine members appointed by the governing body. Members shall be residents of the county and shall be chosen with consideration of their qualifications by training or experience to discharge the duties and functions of the commission; and appointments shall be made with due consideration to maintaining a balance of community interests and of skills in the composition of the commission.

c. The governing body of a county shall designate one of the members to serve as chairman and presiding officer of the commission. The initial members of the commission shall be divided as nearly as possible into three equal groups, the members in each group to serve terms of one, two or three years, as designated by the governing body; succeeding appointments shall all be for three years. Each member shall serve for the term fixed pursuant to law, and until his successor is appointed and has qualified. Any vacancy occurring on the commission otherwise than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

d. The governing body may remove any member of the commission for cause, on written charges served upon the member, and after a hearing thereon at which the member is entitled to be heard in person or by counsel.

e. Members of the commission shall serve without compensation, but shall be entitled to reimbursement for actual expenses necessarily

incurred in the performance of their duties as members of the commission, within the limit of funds appropriated or otherwise available for that purpose.

C. 40:33B-5 Powers.

5. The commission has the power to:

a. Develop standards for the designation of any property, or improvement thereto, as an historic building;

b. Designate any appropriate parcel of real property located in the county, or any improvement to that property, as an historic building and promulgate regulations concerning the preservation and use of that property or improvement, the environment or immediate surroundings thereof, and any real property adjacent thereto, subject to the provisions of the municipal master plan and planning and zoning ordinances;

c. Acquire, in its name or the name of the county, fee simple or lesser interest in any historic building including, where necessary, any adjacent or associated real property, by purchase, bequest, donation or power of condemnation when the county governing body determines that the acquisition is in the public interest. The power of condemnation shall be exercised in accordance with the provisions of the "Eminent Domain Act of 1971," P.L. 1971, c. 361 (C. 20:3-1 et seq.);

d. Preserve and operate any historic buildings under its or the county's ownership and control;

e. Sell, lease or otherwise dispose of any historic building under its or the county's ownership and control, subject to the right of public access and other covenants;

f. Charge and collect fees and rentals for any historic building under its or the county's control, which fees and rentals shall be deposited with other public funds of the county;

g. Designate certain days during which time the public is permitted, upon payment of a reasonable admission fee established by the commission, to visit any historic building which has come under its or the county's ownership on or subsequent to the effective date of this act. Leases and deeds concerning historic buildings owned by the county or commission shall provide for this easement. Admission fees shall be deposited with other public funds;

h. Conduct surveys of real property situated within the county for the purposes of determining which parcels thereof may be desig-

nated historic buildings and gather pertinent facts concerning these buildings;

i. Maintain, in collaboration with the county planning board, detailed records of historic buildings classified with respect to national, State or local significance, to period or field of interest, and other relevant categories, and maintain detailed records of improvements to and alterations of the buildings;

j. Promote and conduct educational programs, publications and other activities relevant to the understanding and interpretation of the historic, aesthetic or cultural significance of historic buildings within the county;

k. Cooperate with and advise the county planning board and any other appropriate county or municipal agency, authority, board or commission concerning the preservation of historic buildings;

l. Submit recommendations to the county governing body concerning the adoption, repeal or amendment of regulations by the governing body, which regulations govern the preservation and use of historic buildings, the environment or immediate surroundings thereof, and any real property adjacent thereto;

m. Cooperate with, advise and assist federal, State and local governmental entities, the county historical society and municipal historical societies, and similar private organizations involved in historic preservation, and enlist the aid of persons skilled or experienced in historical research and historic preservation for the purpose of furthering its own activities and those of public and private agencies with similar goals;

n. Advise owners of historic buildings on problems of preservation;

o. Contract with the State and federal governments or any agency, authority, board or commission of either or with any other public or private agency or organization, in the pursuance of its objectives; and

p. Take any other action not inconsistent with the provisions of this act or any other law, rule or regulation, which action may be necessary or expedient to carrying out its duties and functions.

C. 40:33B-6 Subject to appeal.

6. Any designation effectuated or regulation promulgated pursuant to this act shall be subject to an appeal thereof to the governing body of the county by the owner of the property involved.

C. 40:33B-7 Bonds authorized.

7. The governing body of any county in which a county historical commission is established pursuant to this act is authorized to issue bonds for the purpose of assisting the commission in acquiring in its name or the name of the county and preserving historic buildings. In addition, the governing body is authorized to appropriate for the use of the commission moneys as may be raised from revenue producing properties owned or operated by the commission. The provisions of this section shall be effectuated in accordance with the provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq., "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.

C. 40:33B-8 Funding grants.

8. a. A county historical commission may, in the name of the county and with the approval of the county governing body, apply for and accept any gifts, grants or bequests, including any grants from the federal government or any agency thereof, the government of this State or any of its agencies, instrumentalities or political subdivisions, or any foundation, corporation, association or individual, and may comply with the terms, conditions and limitations thereof, for the purpose of carrying out any of the functions, powers and duties of the commission.

b. Funds received pursuant to this section shall be deposited with the public funds of the county and shall be budgeted, expended and accounted for in accordance with the provisions of 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 with any terms, conditions and limitations upon which the funds are received.

C. 40:33B-9 Cultural and heritage commission.

9. The governing body of any county in which there is established a county cultural and heritage commission pursuant to P.L. 1968, c. 31 (C. 40:33A-1 et seq.), and in which no county historical commission is established pursuant to this act may, by ordinance or resolution, as appropriate, vest in the county cultural and heritage commission all the powers, duties and functions exercised by a county historical commission pursuant to this act.

C. 40:33B-10 Historic register properties.

10. Any rule, regulation, ordinance, resolution or standard adopted or promulgated pursuant to this act and applying to an historic building which is included in the National Register of Historic Places or the New Jersey Register of Historic Places is subject

to the approval of the Commissioner of the Department of Environmental Protection as conforming to the provisions of State or federal laws, rules or regulations pertaining to the appropriate register.

11. This act shall take effect immediately.

Approved August 27, 1987.

CHAPTER 256

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 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 a supplemental debt statement was not prepared and filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs prior to the date of the election as required by the provisions of N.J.S. 18A:24-17; provided, however, that such supplemental debt statement heretofore has been prepared and filed in the places required by N.J.S. 18A:24-17; and provided further, that no action, suit or other proceeding 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 August 27, 1987.

CHAPTER 257

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 election for the authorization or issuance of bonds of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that separate polling places for each 500 ballots or part thereof cast at the last annual school election were not established for the school election as required by N.J.S. 18A:14-5; provided however that all legal voters in the school district were authorized to vote in the authorized polling districts and established polling places in such school district; and provided however, that no action, suit or other 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 August 27, 1987.

CHAPTER 258

AN ACT concerning vocational training in correctional institutions and amending P.L. 1985, c. 394.

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

1. Section 5 of P.L. 1985, c. 394 is amended to read as follows:

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 two years after the date on which the commission meets to organize.

2. Section 7 of P.L. 1985, c. 394 is amended to read as follows:
7. This act shall take effect immediately and shall expire upon submission of the commission's report.
3. This act shall take effect immediately.

Approved September 1, 1987.

CHAPTER 259

AN ACT concerning persons participating in volunteer programs in that part of the Palisades Interstate Park located in New Jersey, amending R.S. 32:14-4, R.S. 34:15-10, R.S. 34:15-43 and N.J.S. 59:1-3, and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

1. R.S. 32:14-4 is amended to read as follows:

Interstate park employees.

32:14-4. Palisades Interstate Park Commission shall have power to appoint such employees as it may deem necessary to carry out the provisions of the Palisades Interstate Park compact and the purposes of this subtitle, subject to the provisions of the applicable Civil Service Statute of the party states, and may employ counsel. It may also determine the duties of its appointees, and make all reasonable rules and regulations respecting them. The commission shall have power to take any action necessary for securing and maintaining the benefits of the State employee retirement system of this State for its employees in this State and for such purpose employees of the commission to the extent to which the compensation paid for their services is derived from funds appropriated by this State or received from other sources in this State shall be deemed to be employees of this State and qualified for membership in said retirement system whether residents of this State or of the State of New York. For the purpose of determining their rights under the workers' compensation act of this State, employees of the commission employed wholly or partly in this State, and persons participating, under the supervision of the commission, in volunteer programs in that part of the Palisades Interstate Park located in New Jersey, shall be deemed to be employees of this State.

Employees of the commission whose salary is paid in full from funds appropriated by this State shall be deemed to be employees of this State for the purpose of covering such employees under the provisions of Title 11 (Civil Service) of the Revised Statutes as herein provided.

All offices, positions or employments held by such employees on the effective date of this amendatory act and so held continuously for a period of not less than six months prior thereto, which can be allocated to the classified service in accordance with the provisions of Title 11 of the Revised Statutes, shall be so allocated under appropriate titles by the Civil Service Commission and such persons shall be recorded, without examination, as having been permanently appointed thereto as of the dates of their respective original appointments by the commission under said titles and shall thereafter be under and subject to all provisions of Title 11 relating to the classified service of the civil service. Those positions which the Civil Service Commission shall determine should be allocated to the unclassified service, shall be allocated to the unclassified service.

In the case of any such employees whose positions have been classified and allocated by the Civil Service Commission to a salary range corresponding to a range in the State compensation plan to which range positions having the same title in the service of the State, if any, are allocated and whose salaries in such range have been determined in accordance with the provisions of Title 11, the salaries of such employees upon being placed in allocated positions in the service of the State shall, with the approval of the budget director, be determined in the same manner as though they had been holding allocated positions in the service of the State. Other employees deemed to be employees of the State shall continue to be paid the salaries received by them immediately prior to the effective date of this act, but the salary of any such employee shall not be less than the minimum salary of the State salary range in which his position is allocated nor in excess of the maximum salary of such range.

The Civil Service Commission shall make provisions for transfer of all employees' sick and vacation leave as well as seniority credits accrued prior to allocation of their positions to the classified service.

2. R.S. 34:15-10 is amended to read as follows:

Employment of minors.

34:15-10. In the employment of minors, this article shall be presumed to apply unless the notice be given by or to the parent or

guardian of the minor. If the injured employee at the time of the accident or compensable occupational disease is a minor under 14 years of age employed in violation of the labor law or a minor between 14 and 18 years of age employed, permitted or suffered to work without an employment certificate or special permit if required by law or at an occupation prohibited at the minor's age by law, a compensation or death benefit shall be payable to the employee or his dependents which shall be double the amount payable under the schedules provided in R.S. 34:15-12 and R.S. 34:15-13.

The possession of such duly issued employment certificate shall be conclusive evidence for an employer that the minor has reached the age certified to therein and no extra compensation shall be payable to any minor engaged in an employment allowed by the law for the age and sex certified to in such certificate. If the certificate presented by the employee as one issued to that person shall have been really issued to another child and the real age of the employee shall be such that employment in any capacity or in the particular capacity the employee was employed by the employer was prohibited and if the employer shall show to the satisfaction of the Division of Workers' Compensation that the employer accepted the certificate in good faith as having been issued to the employee and could not have, despite reasonable diligence, discovered the fraud, in such event no extra compensation shall be paid to the employee illegally employed.

The employer alone and not the insurance carrier shall be liable for the extra compensation or death benefit which is over and above the amount of the compensation or death benefit provided under R.S. 34:15-12 or R.S. 34:15-13. Any provision in an insurance policy undertaking to relieve an employer from the liability for the extra compensation or extra death benefit shall be void.

Nothing in this chapter contained shall deprive an infant under the age of 18 years of the right or rights now existing to recover damages in a common law or other appropriate action or proceeding for injuries received by reason of the negligence of his or her master.

Nothing in this section regarding the payment of a compensation or death benefit in double the amount payable under the schedules provided in R.S. 34:15-12 and R.S. 34:15-13 shall apply to: members of a junior firemen's auxiliary established pursuant to P.L. 1968, c. 309 (C. 40:47-30.6 et seq.); employees, of the age of 18 years or under, employed in summer camps operated by the Boy Scouts of America,

the Girl Scouts of America, the Knights of Columbus, the Young Men's Christian Association, the Young Women's Christian Association, the Young Men's Hebrew Association, or any domestic corporation organized solely for religious or charitable purposes; student-learners employed in a cooperative vocational education program approved by the State Board of Education; or persons, 18 years of age or younger, participating, under the supervision of the Palisades Interstate Park Commission, in volunteer programs in that part of the Palisades Interstate Park located in New Jersey.

3. R.S. 34:15-43 is amended to read as follows:

Compensation for injury in line of duty.

34:15-43. Every officer, appointed or elected, and every employee of the State, county, municipality or any board or commission, or any other governing body, including boards of education, and governing bodies of service districts, individuals who are under the general supervision of the Palisades Interstate Park Commission and who work in that part of the Palisades Interstate Park which is located in this State, and also each and every member of a volunteer fire company doing public fire duty and also each and every active volunteer, first aid or rescue squad worker, including each and every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, doing public first aid or rescue duty under the control or supervision of any commission, council, or any other governing body of any municipality, any board of fire commissioners of such municipality or of any fire district within the State, or of the board of managers of any State institution, every county fire marshal and assistant county fire marshal and every special, reserve or auxiliary policeman doing volunteer public police duty under the control or supervision of any commission, council or any other governing body of any municipality, who may be injured in line of duty shall be compensated under and by virtue of the provisions of this article and article 2 of this chapter (R.S. 34:15-7 et seq.). No former employee who has been retired on pension by reason of injury or disability shall be entitled under this section to compensation for such injury or disability; provided, however, that such employee, despite retirement, shall, nevertheless, be entitled to the medical, surgical and other treatment and hospital services as set forth in R.S. 34:15-15.

As used in this section, the terms "doing public fire duty" and "who may be injured in line of duty," as applied to members of volunteer fire companies, county fire marshals or assistant county

fire marshals, and the term “doing public first aid or rescue duty,” as applied to active volunteer first aid or rescue squad workers, shall be deemed to include participation in any authorized construction, installation, alteration, maintenance or repair work upon the premises, apparatus or other equipment owned or used by the fire company or the first aid or rescue squad, participation in any authorized public drill, showing, exhibition, fund raising activity or parade, and to include also the rendering of assistance in case of fire and, when authorized, in connection with other events affecting the public health or safety, in any political subdivision or territory of another State of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

Also, as used in this section, “doing public police duty” and “who may be injured in line of duty” as applied to special, reserve or auxiliary policemen, shall be deemed to include participation in any authorized public drill, showing, exhibition or parade, and to include also the rendering of assistance in connection with other events affecting the public health or safety in the municipality, and also, when authorized, in connection with any such events in any political subdivision or territory of this or any other State of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

Every member of a volunteer fire company shall be deemed to be doing public fire duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district or board of managers of any State institution within the meaning of this section, if such control or supervision is provided for by statute or by rule or regulation of the board of managers or the superintendent of such State institution, or if the fire company of which he is a member receives contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district or if such fire company has been or hereafter shall be designated by ordinance as the fire department of the municipality.

Every active volunteer, first aid or rescue squad worker, including every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, shall be deemed to be doing public first aid or rescue duty under the control or supervision of any such commission, council,

governing body, board of fire commissioners or fire district within the meaning of this section if such control or supervision is provided for by statute, or if the first aid or rescue squad of which he is a member or authorized worker receives or is eligible to receive contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district, or if such first aid or rescue squad has been or hereafter shall be designated by ordinance as the first aid or rescue squad of the municipality.

As used in this section and in section 34:15-74 of this chapter, the term "authorized worker" shall mean and include, in addition to an active volunteer fireman and an active volunteer first aid or rescue squad worker, any person performing any public fire duty or public first aid or rescue squad duty, as the same are defined in this section, at the request of the chief or acting chief of a fire company or the president or person in charge of a first aid or rescue squad for the time being.

Nothing herein contained shall be construed as affecting or changing in any way the provisions of any statute providing for sick, disability, vacation or other leave for public employees or any provision of any retirement or pension fund provided by law.

C. 34:15-43.4 Maximum benefits for volunteers.

4. (New section) A person participating under the supervision of the Palisades Interstate Park Commission, in a volunteer program in that part of the Palisades Interstate Park located in New Jersey, who is deemed to be an employee of this State under R.S. 32:14-4 for the purpose of receiving workers' compensation coverage, is eligible for compensation for injury or death, or both, under chapter 15 of Title 34 of the Revised Statutes, based upon a weekly salary or compensation conclusively presumed to be received by this person in an amount sufficient to entitle him, or, in the event of his death, his dependents, to receive the maximum compensation available under chapter 15 of Title 34 of the Revised Statutes.

5. N.J.S. 59:1-3 is amended to read as follows:

Definitions.

59:1-3. Definitions. As used in this subtitle:

"Employee" includes an officer, employee, or servant, whether or not compensated or part-time, who is authorized to perform any act or service; provided, however, that the term does not include an independent contractor.

“Employment” includes office; position; employment; or service, under the supervision of the Palisades Interstate Park Commission, in a volunteer program in that part of the Palisades Interstate Park located in New Jersey.

“Enactment” includes a constitutional provision, statute, executive order, ordinance, resolution or regulation.

“Injury” means death, injury to a person, damage to or loss of property or any other injury that a person may suffer that would be actionable if inflicted by a private person.

“Law” includes enactments and also the decisional law applicable within this State as determined and declared from time to time by the courts of this State and of the United States.

“Public employee” means an employee of a public entity, and includes a person participating, under the supervision of the Palisades Interstate Park Commission, in a volunteer program in that part of the Palisades Interstate Park located in New Jersey.

“Public entity” includes the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State.

“State” shall mean the State and any office, department, division, bureau, board, commission or agency of the State, but shall not include any such entity which is statutorily authorized to sue and be sued. “State” also means the Palisades Interstate Park Commission, but only with respect to employees, property and activities within the State of New Jersey.

“Statute” means an act adopted by the Legislature of this State or by the Congress of the United States.

6. This act shall take effect immediately.

Approved September 4, 1987.

CHAPTER 260

AN ACT concerning municipal parking enforcement officers 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. 40A:9-154.7 Parking enforcement officers.

1. The governing body of any municipality may, as it deems necessary, appoint parking enforcement officers to enforce State, county or municipal statutes, resolutions, ordinances or regulations related to the parking of vehicles within the municipality. A parking enforcement officer possesses the power and authority, in the manner and to the extent granted by the municipality, to:

a. Issue a parking ticket for a parking offense, as those two terms are defined in the "Parking Offenses Adjudication Act," P.L. 1985, c. 14 (C. 39:4-139.2 et seq.);

b. Serve and execute all process for any parking offense issuing out of the court in the municipality having jurisdiction over the complaint; and

c. Cause any vehicle parked, stored or abandoned in the municipality in violation of a statute, resolution, ordinance or regulation to be towed away from the scene of the violation and to collect from the vehicle owner or the owner's agent, on behalf of the municipality, the costs of the towing and subsequent storage of the vehicle before surrendering the vehicle to the owner or agent.

C. 40A:9-154.8 Limitations.

2. For purposes of this act, "parking enforcement officer" includes, but is not limited to, such similar titles as "parking control officer" and "parking violation officer" if the appointment, functions and authority of persons holding these titles are in compliance with the provisions of this act. A parking enforcement officer is not a special law enforcement officer within the meaning of the "Special Law Enforcement Officers Act," P.L. 1985, c. 439 (C. 40A:14-146.8 et seq.) and is not a member of the police force of the municipality in which he is employed as a parking enforcement officer. No parking enforcement officer may carry or use a firearm while on duty. A parking enforcement officer is deemed to be on duty while the officer is performing the public safety functions enumerated in section 1 of this act and for which the officer is receiving compensation, if any,

from the municipality at the rates or stipends as established by ordinance.

A parking enforcement officer is not eligible for membership in the Police and Firemen's Retirement System established pursuant to P.L. 1944, c. 255 (C. 43:16A-1 et seq.).

C. 40A:9-154.9 Minimum qualifications.

3. No person may be appointed as a parking enforcement officer unless, at a minimum, the person:

- a. Is a resident of this State during the term of appointment;
- b. Is able to read, write and speak the English language well and intelligently;
- c. Is of sound mind and in good health;
- d. Is of good moral character; and
- e. Has not been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of his office.

C. 40A:9-154.10 Fingerprints; investigation.

4. a. An applicant for the position of parking 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.

b. Before any parking enforcement officer is appointed pursuant to this act, the chief of police or other chief law enforcement officer of the municipality shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the appointing authority.

C. 40A:9-154.11 Training course.

5. No person appointed after the effective date of this act may commence duties as a parking enforcement officer unless that person has successfully completed a training course conducted or approved by the municipality. The appointing authority may waive this training requirement for any person otherwise eligible to be appointed as a parking enforcement officer under this act if the person possesses substantially equivalent training and background, as determined by the chief of police or other chief law enforcement officer.

C. 40A:9-154.12 Uniform; insignia.

6. a. Prior to the commencement of duties, every parking enforcement officer shall be furnished with a uniform which shall clear-

ly 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 municipality in which the officer is employed. The uniform shall also include an insignia issued by the municipality which clearly indicates the officer's status as a parking enforcement officer. The uniform shall be distinct in color from the uniform of a regular police officer or special law enforcement officer.

b. A municipality shall issue permanent insignia not later than 90 days following its first appointment of a parking enforcement officer or not later than 90 days following the effective date of this act for persons designated as parking enforcement officers under the provisions of section 8 of this act. The municipality may issue temporary insignia for use prior to the issuance of permanent insignia.

C. 40A:9-154.13 Fees.

7. The municipality may charge a reasonable fee, as determined by the appointing authority, for uniforms supplied pursuant to this act, but shall not charge a fee for the costs of required training or the issuance of a certificate of appointment.

C. 40A:9-154.14 Designation.

8. Except as provided in section 9 of this act, all persons employed by a municipality, other than regular police officers and special law enforcement officers, who are performing the functions enumerated in section 1 of this act on the effective date of this act, are hereby designated as parking enforcement officers and are deemed to be governed by the provisions of this act.

C. 40A:9-154.15 Exclusion.

9. The provisions of this act do not apply to persons appointed pursuant to subsection (3)(d) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)) who perform under the supervision and direction of a municipal parking authority.

10. This act shall take effect immediately.

Approved September 4, 1987.

CHAPTER 261

AN ACT to create the "Supplemental Nutrition Assistance Contingency Fund" in the Department of Health, supplementing Title 26 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. 26:1A-36.1 Short title.

1. This act shall be known and may be cited as the "Supplemental Nutrition Assistance Contingency Fund Act."

C. 26:1A-36.2 Findings, declarations.

2. The Legislature finds and declares that:

a. The federal "WIC" program provides nutritious foods to low-income pregnant and lactating women and infants and children up to five years of age who are determined to be at special nutritional risk because of poor health or inadequate nutrition, or both;

b. The federal "WIC" program is essential to the well-being of all eligible persons, and these persons should receive the benefits of the program;

c. The Department of Health has limited participation in the "WIC" program and did not spend all of the federal moneys available for the program to ensure that the program did not overspend its federal allotment, because the federal government requires that any WIC program funds not spent during the federal fiscal year in which they are appropriated be returned to the federal government, and because there are currently no State funds provided to support the WIC program in New Jersey;

d. If a contingency fund was established, the State would be able to ensure that program benefits are provided to all eligible women, infants and children; and

e. It is therefore, in the interest of the State to establish a contingency fund for the "WIC" program in order to provide a stable, nutritional food program for all eligible women, infants, and children with nutritious foods.

C. 26:1A-36.3 Special fund established.

3. There is established in the General Fund the "Supplemental Nutrition Assistance Contingency Fund" as a special fund. The State

Treasurer shall credit the fund with all moneys appropriated thereto or otherwise made available, and all interest received from the investment of moneys in the fund. All moneys in the fund are appropriated to effectuate the purposes of this act, and any unexpended balances in the fund at the end of a fiscal year shall be appropriated to the credit of the fund. Moneys in the fund shall be available as a contingency reserve to ensure that underenrollment of persons otherwise eligible for supplemental foods under the special supplemental food program for women, infants and children (WIC) established pursuant to Pub.L. 95-267 (42 U.S.C. §1786) does not occur due to a concern of overspending federal funds available for that program. Moneys in the fund shall not be available to expand or augment program services and shall not be expended for the administrative costs of the program.

C. 26:1A-36.4 Allocation procedure.

4. If the Commissioner of the Department of Health determines that an allocation from the contingency fund is required as a result of overspending beyond the availability of federal funds, he shall provide written notification to the Director of the Division of Budget and Accounting in the Department of the Treasury of his determination and the reasons therefor. The Director of the Division of Budget and Accounting shall review the commissioner's determination and if the director shall agree, he shall make such sums available to the Department of Health as in his opinion are required based on his review of the commissioner's determination. Upon his approval or disapproval of an allocation from the contingency fund, the director shall notify the Joint Budget Oversight Committee or its successor, of the approval or disapproval and the reasons therefor.

5. There is appropriated \$750,000.00 from the General Fund to the Supplemental Nutrition Assistance Contingency Fund to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved September 8, 1987.

CHAPTER 262

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated from the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
78 DEPARTMENT OF TRANSPORTATION	
60 Transportation Programs	
64 Planning and General Management Support	
02-6030 Planning	\$250,000*
Special Purpose:	
Monorail systems planning	
and feasibility studies and	
evaluation of project proposals	(\$250,000)*

The amount hereinabove appropriated shall be used by the department to conduct or contract for planning and feasibility studies and for the evaluation of project proposals related to the development and construction of monorail systems.

2. This act shall take effect immediately.

Approved September 8, 1987.

Statement to Chapter 262
(Senate Reprint for Assembly Bill No. 2069 (4th OCR))

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Reprint for Assembly Bill No. 2069 (4th OCR) at the time of signing it my 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.

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

This bill provides a supplemental appropriation of \$600,000 from the General Fund to the Department of Transportation to conduct monorail feasibility studies and project proposal evaluations at nine separate locations around the State.

The Department, along with this Administration, has already evidenced a strong commitment to this new technology. In fact, the Department of Transportation recently awarded a six-month consultant contract to study the feasibility of operating a monorail from downtown Newark to Newark International Airport. In addition, the Department is currently conducting a study of mass transportation on the Hudson River Waterfront, including the potential for bus ways and light rail systems in this part of the State. These two studies, occurring at two of the locations named in this bill, are being conducted for amounts in excess of the appropriation set forth in Senate Reprint for Assembly Bill No. 2069 (4th OCR). The other seven studies may indeed be worth pursuing; however, the justification for additional programs must take into consideration that which is already being accomplished and should be developed and coordinated with the Department of Transportation's overall program for the improvement of mass transit in this State.

I am also reducing the bill's appropriation from \$600,000 to \$250,000. This sum is being provided to the Department of Transportation to fund those studies, deemed viable by the Department, which are not currently funded by the State.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

<u>Page 1, Section 1, Line 4B:</u>	Delete "\$600,000" insert "\$250,000"
<u>Page 2, Section 1, Line 25B:</u>	Delete "\$600,000" insert "\$250,000"
<u>Page 2, Section 1, Line 30:</u>	Delete "at the"
<u>Page 2, Section 1, Lines 31-37:</u>	Delete in their entirety
<u>Page 2, Section 1, Line 38:</u>	Delete "Gloucester counties"

Respectfully,
Thomas H. Kean
Governor

CHAPTER 263

AN ACT concerning certain appointments as a municipal firefighter or a municipal police officer.

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

1. Notwithstanding any other law, rule, regulation, or directive to the contrary, any person appointed to a position as a municipal firefighter or a municipal police officer on or after March 1, 1987 and prior to June 1, 1987 who has been removed from that position or whose removal has been directed or who is deemed to be ineligible for that position because the person was over 35 years of age on the announced closing date for the open competitive examination for that position shall be restored to that position or retained in that position, as the case may be, and shall be enrolled as a member of the Police and Firemen's Retirement System established pursuant to P.L. 1944, c. 255 (C. 43:16A-1 et seq.).

2. This act shall take effect immediately.

Approved September 8, 1987.

CHAPTER 264

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID

DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

45 Recreational Resource Management—State Aid

21-4895 Navigational Aids	\$200,000

State Aid:

Dredging of inland waterways—

State aid to counties and
municipalities, 100% grants for
maintenance dredging projects (\$200,000)

2. This act shall take effect immediately.

Approved September 9, 1987.

CHAPTER 265

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$100,000,000.00 for the purpose of financing the construction and development of cultural centers and the restoration, repair or rehabilitation of historic structures in the State, and for the purpose of providing for grants and loans to assist municipalities and counties and other units of local government to acquire and develop lands for recreation and conservation purposes; establishing certain funds for those purposes; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation.

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

1. This act shall be known and may be cited as the “New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987.”

2. The Legislature finds and declares:

a. The provision of lands for public recreation and the conservation of natural resources promotes the public health, prosperity and general welfare and is a proper responsibility of government;

b. Lands now provided for these purposes will not be adequate to meet the needs of an expanding population in years to come;

c. The expansion of population, while increasing the need for these lands, will continually diminish the supply and tend to increase

the cost of public acquisition of lands available and appropriate for these purposes in the future;

d. It is necessary to provide incentives, in the form of grants and loans, to assist local units to acquire lands which have significant recreation and conservation attributes;

e. It is also necessary to provide funds to assure that lands which have been or may hereafter be acquired for recreation and conservation purposes can be developed so as to provide public recreation, preserve historic resources, and provide conservation opportunities and to implement the New Jersey Statewide Comprehensive Outdoor Recreation Plan;

f. The State of New Jersey must act now to assist local units to acquire and develop such lands as are now available and appropriate for these purposes so that they may be used and preserved for use for these purposes;

g. The establishment of a mechanism for a continuing source of low-interest loans to local government units for the acquisition and development of lands for recreation and conservation will reduce the cost of and facilitate continuing acquisition programs; and

h. Further, there is a need to develop cultural centers in our State whose function would be to bring the arts and humanities to the residents of New Jersey and to visiting tourists;

i. Cultural centers would provide regional meeting places for the residents of our State to share with one another and residents from other states the varied cultural activities available in New Jersey;

j. In addition, there are throughout this State, and in every county thereof, structures and facilities of historic character which are owned by State, county or municipal governments or by nonprofit organizations and which are in need of repair or restoration;

k. The preservation of these historic facilities will sustain an important element of our historic heritage which would otherwise be lost;

l. A significant number of these historic facilities are located in urban centers, where their preservation and restoration can play an important part in the overall strategy of urban revitalization;

m. And, accordingly, it is a further purpose of this act to provide, through the issuance of bonds of the State, the funds necessary to

finance cultural center development and historic preservation projects.

3. As used in this act, unless the context indicates a different meaning or intent:

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

b. "Construct" and "construction" mean, in addition to the usual meanings thereof, acts of construction, reconstruction, rehabilitation, relocation, demolition, renewal, repair, replacement, extension, improvement and betterment.

c. "Cultural center development cost" or "historic preservation cost" means the expenses incurred in connection with: the acquisition by purchase, lease or otherwise, the development and the construction of any cultural center development or historic preservation 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 cultural center development or historic preservation project authorized by this act, including any rights or interests therein; the execution of any agreements and franchises deemed by either the State Council on the Arts or the Trustees of the New Jersey Historic Trust, as the case may be, to be necessary or useful and convenient in connection with any cultural center development or historic preservation project authorized by this act; the procurement of engineering, architectural, 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 cultural center development or historic preservation projects authorized by this act; the establishment of reserve funds 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 cultural center development or historic preservation project authorized by this act.

d. "Project" means any work relating to the construction or im-

provement or development of a cultural center or the repair, restoration, rehabilitation, renovation or improvement of any historic property, structure, facility or site. Work related to providing access for the handicapped to cultural centers or historic properties, structures, facilities, sites or districts shall be considered a project.

e. "Historic" as applied to any property, structure, facility or site means, except as used in subsection k. of this section and in section 10 of this act, any area, site, structure or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L. 1970, c. 268 (C. 13:1B-15.128 et seq.).

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

g. "Green acres cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with the acquisition and green acres development of lands with the assistance of the State, for recreation and conservation purposes; including the interest or discount on bonds, the issuance of bonds; the procurement or provision of engineering, inspection, relocation services, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; the services of a bond registrar or authenticating agent; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; and reimbursement of any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or of any moneys heretofore expended for or in connection with this acquisition or green acres development.

h. "Green acres development" means any improvement to land or water areas designed to expand and enhance their utilization for recreation and conservation purposes, including, but not limited to, site preparation, landscaping, structures or facilities which are substantially topographical conditions. These support structures and

facilities shall include, but are not limited to access roads, interpretative facilities, parking areas, utilities and comfort facilities, consistent with the natural setting and

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

j. "Local government unit" means a municipality, county or other political subdivision of this State authorized to administer, protect, develop and maintain lands for recreation and conservation purposes, or any agency thereof, the primary purpose of which is to administer, protect, develop and maintain lands for recreation and conservation purposes.

k. "Recreation and conservation purposes" means the use of lands for parks, natural areas, historic areas, forests, camping, fishing, water reserves, wildlife reservoirs, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both.

l. "Commissioner" means the Commissioner of the Department of Environmental Protection.

m. "Commission" means the New Jersey Commission on Capital Budgeting and Planning.

4. a. Proceeds from the bonds issued pursuant to section 10 of this act for the purpose of making State grants to assist projects of cultural center development shall be awarded by the State Council on the Arts in the Department of State.

The State Council on the Arts shall establish an advisory committee composed of individuals with the requisite professional expertise to evaluate the grant applications submitted pursuant to this section and to advise the council on the merits of each application received.

Prior to the issuance of any bonds pursuant to this act, the State Council on the Arts shall (1) conduct a survey to assess the need for cultural center development, and (2) determine how these needs will be met.

b. The State Council on the Arts shall award grants on a competitive basis for cultural center development in the State based upon the following criteria:

(1) Demonstration by the applicant of high quality programming and administrative capabilities;

(2) Submission of high quality capital plans that indicate a significant level of local support; and

(3) The ability to meet the eligibility standards for cultural center development projects contained in subsections c. and d. of this section.

c. Grants for cultural center development shall not be made for projects whose cultural center development costs are less than \$100,000.00. All grants shall be for capital projects. For the purposes of this section capital projects mean: realty acquisition; building expansion or repair; and repair and replacement of fixtures. Fixtures include, but are not limited to, seating, curtains and lighting.

d. To be eligible for a grant for cultural center development projects, the board of directors or governing body of the applying tax exempt nonprofit organization or government unit shall:

(1) Maintain existing or propose to operate new facilities of sufficient State or regional significance. For the purpose of this act, a facility to be of sufficient State or regional significance shall have appropriate and requisite spaces, technical capabilities, and professional management to present or produce year-round programs, exhibitions and activities of high artistic quality; shall ensure that quality programs from a variety of artistic disciplines that serve broad and diverse regional audiences are presented; and shall have the necessary display or seating capacity, staging, appurtenant production preparation spaces, auxiliary facilities, sound, lighting and other technical aspects, management, marketing and maintenance support, and convenient parking, to attract a wide variety of performing groups and to serve New Jersey's citizens on a regional basis;

(2) Have in place a capital improvement plan;

(3) Demonstrate the ability to match the grant requested under the provisions of this act in the following manner:

(a) Generate \$1.00 of nonpublic funds for every \$1.00 of grant money sought; and

(b) Generate \$1.00 of non-State funds for every \$0.50 of grant money sought.

Moneys raised for ongoing projects up to two years prior to the enactment of this act may be eligible for State assistance under the provisions of the above mentioned matching format, but under no circumstances will funds generated prior to that time qualify for a grant under the provisions of this act.

e. No project may receive a grant which exceeds a sum equal to 15% of the value of the bonds authorized to be issued pursuant to subsection a. of section 10 of this act for cultural center development grants.

f. Recipients of grants awarded pursuant to this section shall reflect the racial, ethnic and geographic diversity of the State.

g. Prior to awarding any grants under this section, the State Council on the Arts shall submit to the Legislature for its approval, which approval shall be in the form of the passage of a concurrent resolution, a list of projects that are to be funded under this section.

5. a. Proceeds from the bonds issued pursuant to section 10 of this act for the purpose of making State grants for the historic preservation cost of restoring, repairing or rehabilitating historic structures shall be awarded by the Trustees of the New Jersey Historic Trust in the Department of Environmental Protection.

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

Prior to the issuance of any bonds pursuant to this act, the New Jersey Historic Trust shall (1) conduct a survey to assess the need for historic preservation projects, and (2) to determine how these needs will be met.

b. The New Jersey Historic Trust shall award grants on a competitive basis for historic preservation projects in the State for the renovation, restoration and rehabilitation of historic properties owned by State, county and municipal governments and by tax exempt nonprofit organizations based upon the following criteria:

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

(2) Demonstration by the applicant of administrative capabilities to achieve this purpose;

(3) The ability to meet the eligibility standards for historic preservation projects contained in subsection c. of this section;

(4) Submission of financial plans for the continued preservation of the historic structure after the expenditure of the grant moneys; and

(5) Evidence that the property shall remain accessible to the public or shall be made and remain accessible to the public.

c. To be eligible for a grant for historic preservation projects, the board of directors or governing body of the applying tax exempt nonprofit organization or government unit shall:

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

(2) Demonstrate the ability to match the grant requested as follows: generate \$1.00 in funds for every \$1.00 of grant money sought.

Moneys raised for ongoing projects up to two years prior to the enactment of this act may be eligible for State assistance under the provisions of the above mentioned matching format, but under no circumstances will funds generated prior to that time qualify for a grant under the provisions of this act.

d. Prior to awarding any grants under this section, the New Jersey Historic Trust shall submit to the Legislature for its approval, which approval shall be in the form of the passage of a concurrent resolution, a list of projects that are to be funded under this section.

e. The total value of grants made pursuant to this section for the preservation of historic properties owned by the State may not exceed 50% of the total value of grants authorized to be made pursuant to this section.

f. No project may receive a grant which exceeds a sum equal to 5% of the value of the bonds authorized to be issued pursuant to subsection b. of section 10 of this act for historic preservation grants.

g. Recipients of grants awarded pursuant to this section shall reflect the racial, ethnic and geographic diversity of the State.

6. a. The Secretary of State shall require as a condition of any grant made to a tax exempt nonprofit organization pursuant to section 4 of this act that the property for which the grant was received

shall not be sold or leased to an individual or organization which does not have tax exempt nonprofit status.

b. The Commissioner of the Department of Environmental Protection shall require as a condition of any grant made to a tax exempt nonprofit organization pursuant to section 5 of this act that the property for which the grant was received shall not be sold or leased to an individual or organization which does not have tax exempt nonprofit status.

7. Grants made from the proceeds of the bonds as allocated in subsection a. of section 10 of this act, and grants and loans made from the proceeds of the bonds as allocated in subsection b. of section 10 of this act, shall only be made to units of State, county or municipal government or to tax exempt nonprofit organizations.

8. Commencement of the work on any project that is to be funded under the provisions of sections 4 and 5 of this act shall begin within two years of the effective date of the appropriation by law of funds for the grant for the project or the grants that are awarded shall lapse into the fund established pursuant to section 20 of this act.

9. a. State grants for the green acres cost of lands to be acquired or developed by a local government unit, from the proceeds of the bonds issued pursuant to section 10 of this act for recreation and conservation purposes, shall not exceed 25% of the green acres cost of acquisition or development of these lands by a local government unit, provided however, that at such times as the balance of the "Green Trust Fund" exceeds \$83,000,000.00, the Commissioner of the Department of Environmental Protection, in consultation with the State Treasurer, may increase the State's share of the green acres cost of acquisition to a maximum of 50%. The local government unit's share of the green acres cost of this acquisition may be reduced by the (1) fair market value, as determined, by the commissioner, of any portion of the lands to be acquired which have been donated to, or otherwise received without cost by, the local government unit; or (2) in the case of a conveyance to a local government unit of the lands or any portion thereof at less than fair market value, by the difference between fair market value thereof at the time of the conveyance and the conveyance price thereof to the local unit.

b. State loans for the green acres cost of lands to be acquired or developed by a local government unit, from the proceeds of the bonds issued pursuant to section 10 of this act for recreation and conservation purposes, shall include up to 100% of the green acres cost of

acquisition and development of these lands. The local government unit's share of the green acres cost of this acquisition may be reduced in the manner provided in subsection a. of this section.

c. Loans made to local government units from the Green Trust Fund shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

d. No money from the Green Trust Fund shall be expended for a grant to a local government unit until such time as the sums available pursuant to P.L. 1961, c. 46; P.L. 1971, c. 165; P.L. 1974, c. 102; P.L. 1978, c. 118 and P.L. 1983, c. 354 for that particular grant category have been appropriated and obligated.

e. The commissioner shall adopt rules and regulations as are necessary and appropriate to carry out the applicable provisions of this act. The commissioner shall review and consider the findings and recommendations of the commission in the administration of the applicable provisions of this act.

10. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$100,000,000.00 for the purposes of making State grants to assist projects of cultural center development, grants and loans to assist historic preservation projects, and grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes, to be allocated as follows:

a. \$40,000,000.00 for cultural center development State grants to be awarded on a competitive basis and based on criteria established pursuant to section 4 for cultural center projects;

b. \$25,000,000.00 for historic preservation projects, of which amount \$22,000,000.00 shall be for State grants to be awarded on a competitive basis and based on criteria established pursuant to section 5 for historic preservation projects, and \$3,000,000.00 shall be placed in an historic preservation revolving loan fund, as shall be established by law, to be awarded based on criteria established pursuant to that law;

c. \$35,000,000.00 for State grants and loans to local government units for the green acres cost of acquisition and development of lands by local government units for recreation and conservation purposes.

11. In addition to all other conditions and limitations imposed in this act upon the grants and loans authorized to be made from

the proceeds from the aggregate principal amount of bonds authorized to be issued in section 10 hereof, an amount of not less than \$17,000,000.00 shall be applied, among the categories of grants and loans provided for in section 10 of this act for cultural center development projects, historic preservation projects, or local government units' recreation and conservation purposes, or among any thereof, in the eight southernmost counties of the State.

12. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "1987 Green Acres, Cultural Centers and Historic Preservation 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.

13. 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 place of that issuing official.

14. 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.

15. 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.

16.a. The bonds shall recite that they are issued for the purposes set forth in section 10 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, 1987 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.

17. 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.

18. 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.

19. 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.

20. The proceeds from the sale of the bonds authorized to be issued in subsections a. and b. of section 10 of this act shall be paid to the State Treasurer, to be held thereby in a separate fund, which shall be known as the "Cultural Centers and Historic Preservation 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.

21. a. The moneys in the "Cultural Centers and Historic Preservation Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in subsections a. and b. of section 10 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 authorized to be issued under subsections a. and b. of section 10 of 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 "Cultural Centers and Historic Preservation Fund" such sums as he may deem necessary. The sums so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of those bonds.

c. Pending their application to the purposes provided in the applicable provisions of this act, the moneys in the "Cultural Centers and Historic Preservation 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 General Fund.

22. The proceeds from the sale of the bonds authorized to be issued in subsection c. of section 10 of this act shall be paid to the State Treasurer, to be held thereby in a separate fund, which shall be known as the "Green Trust Fund." Moneys derived from the payment of interest and principal on the loans to local government units authorized in section 9 of this act, and such grants, contributions, donations and reimbursement from federal aid programs as may lawfully be used for the purposes of making loans and grants to local government units for recreation and conservation purposes, shall also be held in the "Green 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.

23. a. The moneys in the "Green Trust Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in subsection c. of section 10 of this act, and all such moneys shall be expended 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 "Green Trust Fund" shall identify the particular project or projects to be funded with such moneys.

b. At any time prior to the issuance and sale of bonds authorized to be issued under subsection c. of section 10 of 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 "Green Trust Fund," such sums as may be deemed necessary for the applicable purposes of this act by the State House Commission. The sums so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of those bonds.

c. Pending their application to the purposes provided in the applicable provisions of this act, moneys in the "Green Trust Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the "Green Trust Fund" shall be redeposited and become a part of that fund.

24. Any proceeds from the sale of lands acquired with funds made available pursuant to P.L. 1961, c. 46; P.L. 1971, c. 165; P.L. 1974, c. 102; P.L. 1978, c. 118; and P.L. 1983, c. 354 may be deposited in the "Green Trust Fund" established in this act; or in any fund established in any subsequent bond act enacted for similar purposes.

25. 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.

26. 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.

27. 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.

28. 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.

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 expense of issuing such refunding bonds and the expenses, if any, of paying such bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal 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.

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 purposes 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 (a) 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 (b) 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 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. 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 18 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 Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report 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 Budget Oversight Committee, or its successor, 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 committee, or its successor, shall notify the

issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

29. 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 bond.

30. Refunding bonds issued pursuant to section 28 of this act may be consolidated with bonds issued pursuant to section 12 of this act or with bonds issued pursuant to any other act for purposes of sale.

31. 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.

32. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenue 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.

33. 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, 1987. 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.	GREEN ACRES, CULTURAL CENTERS AND HISTORIC PRESERVATION BOND ISSUE OF 1987 Shall the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," which authorizes the State to issue bonds in the amount of \$100,000,000.00, of which amount, \$40,000,000.00 is allocated for State grants to be awarded on a competitive basis for cultural center projects; \$25,000,000.00 is allocated for State grants to be awarded on a competitive basis, and for State loans, for historic preservation projects; and \$35,000,000.00 is allocated for State grants and loans to local government units for the acquisition and development of lands for recreation and conservation purposes; and in a principal amount sufficient to refinance all or any of the bonds if the same will result in a present value savings; and providing the ways and means to pay and discharge the principal and interest thereof, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act will authorize the sale of \$100,000,000.00 in State bonds, with the proceeds to be allocated as follows: \$40,000,000.00 for State competitive grants for cultural center projects, \$25,000,000.00 for State competitive grants and for State loans for historic preservation projects, and \$35,000,000.00 for State grants and loans to local government units for the acquisition and development of lands for recreation and conservation purposes. The act also authorizes the issuance of bonds in a sufficient amount to refinance all or any of these bonds if the same will result in a present value savings.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law 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.

34. There is hereby appropriated the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 28.

35. The commissioner shall submit to the State Treasurer and the commission with the Department of Environmental Protection's annual budget request, a plan for the expenditure of funds from the "Green 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 in whole, by funds from the "Green Trust Fund"; and an estimate of expenditures for the upcoming fiscal year.

36. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the General Assembly Energy and Natural Resources Committee, the Senate Natural Resources and Agriculture Committee, or their successors, and the Joint Budget Oversight Committee, or its successor, a copy of the plan called for under section 35 of this act, together with such changes therein as may have been required by the Governor's budget message.

37. Not less than 30 days prior to entering into any contract, lease, obligation or agreement to effectuate the applicable purposes of this act, the commissioner shall report to and consult with the Joint Budget Oversight Committee, or its successor.

38. Sections 33 and 34 of this act shall take effect immediately and the remainder of the act shall take effect as provided in section 33.

Approved September 10, 1987.

CHAPTER 266

AN ACT providing financial incentives for the formation of certain regional school districts, amending and supplementing N.J.S. 18A:58-7 and P.L. 1975, c. 212.

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

1. N.J.S. 18A:58-7 is amended to read as follows:

Transportation of pupils.

18A:58-7. Each district shall also be paid 90% of the cost to the district of transportation of pupils to a school when the necessity for such transportation and the cost and method thereof have been approved by the county superintendent of the county in which the district paying the cost of such transportation is situate; except that in the case of a regional school district formed after January 1, 1987 the payment shall be calculated on the current basis of the approved amount of transportation expense during the two years following the year of regionalization of the school district, subject to the provisions of section 4 of P.L. 1987, c. 266 (C. 18A:7A-27.1). Such aid shall be paid for elementary pupils who live beyond two miles from their school of attendance and secondary pupils who live beyond 2½ miles from their school of attendance.

2. Section 18 of P.L. 1975, c. 212 (C. 18A:7A-18) is amended to read as follows:

C. 18A:7A-18 Current expenses.

18. Equalization support for current expenses of all school districts shall be paid in accordance with the calculations contained in subsection a. or b. whichever results in a greater amount of aid:

- a. Divide the district equalized valuation per pupil by the guaranteed valuation per pupil and subtract the quotient from 1.000 to obtain the district's State support ratio.

Multiply the district's State support ratio by the smaller of (1) the net current expense budget for the prebudget year or (2) the product of the resident enrollment and the State support limit.

b. Divide the district's equalized valuation per pupil by the minimum aid guaranteed valuation per pupil, subtract the quotient from 1.000 and multiply the remainder by 10% to obtain the district's minimum aid State support ratio.

Multiply the district's minimum aid State support ratio by the product of the resident enrollment and the State support limit.

An all purpose regional school district formed after January 1, 1987 shall be entitled to 110% of the amount of equalization aid calculated pursuant to subsections a. and b. of this section for a period of five years following the year of regionalization of the school district, subject to the provisions of section 4 of P.L. 1987, c. 266 (C. 18A:7A-27.1).

3. Section 19 of P.L. 1975, c. 212 (C. 18A:7A-19) is amended to read as follows:

C. 18A:7A-19 Debt service, capital outlay.

19. State support for debt service and budgeted capital outlay shall equal the total of the net debt service and budgeted capital outlay budgets for the prebudget year multiplied by the district's current expense State support ratio obtained in section 18 of this act. If the product is less than zero, no support shall be paid. Budgeted capital outlay used for the calculation of State support shall be the smaller of (1) the budgeted capital outlay for the prebudget year, or (2) 1½% of the sum of the current expense and budgeted capital outlay for the prebudget year.

Any all purpose regional school district formed after January 1, 1987 whose equalized valuation per pupil exceeds the State guaranteed valuation per pupil shall receive debt service and capital outlay aid in the same percentage as current expense aid calculated pursuant to P.L. 1975, c. 212 (C. 18A:7A-1 et seq.) for a period of 10 years following the year of regionalization of the school district, subject to the provisions of section 4 of P.L. 1987, c. 266 (C. 18A:7A-27.1).

C. 18A:7A-27.1 Additional State aid.

4. (New section) In addition to all other State aid, the first five districts that receive required approval to form a regional school district after January 1, 1987 shall be entitled to receive additional

State aid as provided in N.J.S. 18A:58-7 and sections 18 and 19 of P.L. 1975, c. 212 (C. 18A:7A-18 and 18A:7A-19) as amended by this 1987 amendatory and supplementary act.

5. This act shall take effect immediately and shall be retroactive to January 1, 1987.

Approved September 11, 1987.

CHAPTER 267

AN ACT to amend the "Pinelands Protection Act," approved June 28, 1979 (P.L. 1979, c. 111).

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

1. Section 11 of P.L. 1979, c. 111 (C. 13:18A-12) is amended to read as follows:

C. 13:18A-12 Master plan revisions.

11. a. The provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, within one year of the date of the adoption of the comprehensive management plan, or any revision thereof, each county located in whole or in part in the pinelands area shall submit to the commission such revisions of the county master plan as may be necessary in order to implement the objectives of the comprehensive management plan and conform with the minimum standards contained therein. After receiving and reviewing such revisions, as applicable to the development and use of land in the pinelands area, the commission shall approve, reject, or approve with conditions said revised plans, as it deems appropriate, after public hearing, within 60 days of the submission thereof.

Upon rejecting or conditionally approving any such revised plan, the commission shall identify such changes therein that it deems necessary for commission approval thereof, and the relevant county shall adopt and enforce such plan, as so changed.

b. Within one year of the date of the adoption of the comprehensive management plan, or any revision thereof, each municipality located in whole or in part in the pinelands area shall submit to the commission such revisions of the municipal master plan and local land use ordinances as may be necessary in order to implement

the objectives of the comprehensive management plan and conform with the minimum standards contained therein. After receiving and reviewing such revisions, as applicable to the development and use of land in the pinelands area, the commission shall approve, reject, or approve with conditions said revised plans and ordinances, as it deems appropriate, after public hearing, within 120 days of the date of the submission thereof. The number of low or moderate income housing units provided for in the revised plan shall not be used by the commission as a criterion for the approval, rejection, or conditional approval of the revised plan.

Upon rejecting or conditionally approving any such revised plan or ordinance, the commission shall identify such changes therein that it deems necessary for commission approval thereof, and the relevant municipality shall adopt and enforce such plan or ordinance, as so changed.

The commission may, as herein provided, delegate the review of any municipal master plan or land use ordinance to the planning board of the county wherein such municipality is located. Any such delegation shall be made only: (1) upon a finding by the commission that such delegation is consistent with the purposes and provisions of this act and the Federal Act; (2) if the commission has approved the master plan for such county; and (3) at the request of the governing body of such county. The results of any such county planning board review shall be transmitted to the commission prior to the commission's review and approval of any such municipal master plan or ordinance.

c. In the event that any county or municipality fails to adopt or enforce an approved revised master plan or implementing land use ordinances, as the case may be, including any condition thereto imposed by the commission, the commission shall adopt and enforce such rules and regulations as may be necessary to implement the minimum standards contained in the comprehensive management plan as applicable to any such county or municipality.

d. Any approval of any application for development granted by any municipality, county, or agency thereof in violation of the provisions of this section shall be null and void and of no force and effect at law or equity.

2. Section 14 of P.L. 1979, c. 111 (C. 13:18A-15) is amended to read as follows:

C. 13:18A-15 Pinelands development applications.

14. Subsequent to the adoption of the comprehensive management plan, the commission is hereby authorized to commence a review, within 15 days after any final municipal or county approval thereof, of any application for development in the pinelands area. Upon determining to exercise such authority, the commission shall transmit, by certified mail, written notice thereof to the person who submitted such application. The commission shall, after public hearing thereon, approve, reject, or approve with conditions any such application within 45 days of transmitting such notice; provided, however, that such application shall not be rejected or conditionally approved unless the commission determines that such development does not conform with the comprehensive management plan or the minimum standards contained therein, as applicable to the county or municipality wherein such development is located, or that such development could result in substantial impairment of the resources of the pinelands area. Such approval, rejection or conditional approval shall be binding upon the person who submitted such application, shall supersede any municipal or county approval of any such development, and shall be subject only to judicial review as provided in section 19 of this act.

The number of low or moderate income housing units provided for in the application for development shall not be used as a criterion for the approval or rejection of the application.

3. This act shall take effect immediately.

Approved September 11, 1987.

CHAPTER 268

AN ACT exempting certain direct-mail advertising processing services from the sales and use tax, and amending P.L. 1966, c. 30 and P.L. 1985, c. 24.

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

1. Section 3 of P.L. 1966, c. 30 (C. 54:32B-3) is amended to read as follows:

C. 54:32B-3 Imposition of sales tax.

3. Imposition of sales tax. On and after July 1, 1966 and continu-

ing through February 28, 1970, there is hereby imposed and there shall be paid a tax of 3%; on and after March 1, 1970 and continuing through January 2, 1983, there is hereby imposed and there shall be paid a tax of 5%; and on and after January 3, 1983, there is imposed and there shall be paid a tax of 6%, upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L. 1980, c. 105 (C. 54:32B-8.1), (iii) services rendered with respect to trucks, tractors, trailers or semi-trailers by a person who is not engaged, directly or indirectly through subsidiaries, parents, affiliates or otherwise, in a regular trade or business offering such services to the public, (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property

by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding interior cleaning and maintenance services, garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days, other than window cleaning, and rodent and pest control.

(5) Advertising services, except advertising services for use directly and primarily for publication in newspapers and magazines and except for direct-mail advertising processing services in connection with distribution to out-of-State recipients.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection, where the tangible personal property upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) Receipts from the sale of food and drink in or by restaurants, taverns, vending machines or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) In all instances where the sale is for consumption on the premises where sold;

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization; and

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods;

(4) Sales of food and beverages sold through coin-operated vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except sales of milk, which shall not be taxed. Nothing herein contained shall affect other sales through coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by section 21 of P.L. 1980, c. 105 (C. 54:32B-8.9).

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an airline for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of \$2.00 per day.

(e)(1) Any admission charge, where such admission charge is in excess of \$0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theatres, except charges for admission to boxing, wrestling, kick boxing or combative sports exhibitions, events, performances or contests which charges are taxed under any other law of this State or under section 20 of P.L. 1985, c. 83 (C. 5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

2. Section 1 of P.L. 1985, c. 24 (C. 54:32B-8.39) is amended to read as follows:

C. 54:32B-8.39 Direct-mail advertising exemption.

1. Receipts from sales of advertising or promotional materials which are prepared within or outside of the State of New Jersey for distribution by a New Jersey direct-mail advertising or promotional firm to out-of-State recipients and receipts from sales of direct-mail advertising processing services in connection with distribution of advertising or promotional materials to out-of-State recipients are exempt from the tax imposed under the Sales and Use Tax Act. The exemption provided by this section shall apply to receipts from charges for the printing or production of advertising and promotional materials whether prepared in, or shipped into New Jersey after preparation and stored for subsequent shipment to out-of-State customers. The direct-mail advertising processing services exemption provided by the section shall apply to receipts from charges for all processing services for distribution to out-of-State recipients, including but not limited to the following: preparing and maintaining mailing lists, addressing, separating, folding, inserting, sorting and packaging advertising or promotional materials and transporting to the point of shipment by the mail service or other carrier.

3. This act shall take effect immediately.

Approved September 11, 1987.

CHAPTER 269

AN ACT concerning power vessels and supplementing chapter 7 of Title 12 of the Revised Statutes.

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

C. 12:7-23.1 Short title.

1. This act shall be known and may be cited as the "Power Vessel Noise Control Act."

C. 12:7-23.2 Muffler requirement.

2. Every power vessel used on the waters of this State shall at all times be equipped with a muffler or muffler system in good working order and in constant operation. A person shall not use a muffler or muffler system cutout, bypass or similar method or device

designed to prevent or diminish the operational capacity of a muffler or muffler system installed on a power vessel used on the waters of this State. Decibel levels exceeding the limits established pursuant to rules and regulations as measured by a noise meter operated by a trained Marine Police officer shall be evidence of a violation of this act. For the purposes of this act, muffler means a sound dissipative device or system which abates the sound of gases which are emitted from an internal combustion engine and which prevents excessive or unusual noise.

C. 12:7-23.3 Sales regulated.

3. A person shall not sell or offer for sale in this State any power vessel which is not equipped with a muffler or muffler system in good working order, or which does not comply with specifications for mufflers or muffler systems as may be required by the rules and regulations adopted by the Boat Regulation Commission established pursuant to section 14 of P.L. 1962, c. 73 (C. 12:7-34.49). The Boat Regulation Commission may by rule or regulation exempt from the requirements of this section certain types of power vessels designed and constructed solely for participation in racing events.

C. 12:7-23.4 Racing exemption.

4. The provisions of this act shall not apply to power vessels registered and actually participating in racing events, or tuneup periods for racing events, when authorized by the Division of State Police in the Department of Law and Public Safety or by any other public authority with the approval of the Division of State Police.

C. 12:7-23.5 Violations; penalties.

5. A person who violates any provisions of this act or any regulation adopted pursuant to this act is guilty of a disorderly persons offense. If a court imposes a fine under this section, this fine shall be not less than \$100.00 for the first offense, \$300.00 for the second offense, and \$500.00 for the third and each subsequent offense.

C. 12:7-23.6 Fines to State.

6. Notwithstanding the provisions of N.J.S. 2C:46-4 or any other provision of law, rule or regulation to the contrary, all fines imposed and collected pursuant to this act shall be remitted to the State Treasurer by the court imposing and collecting the fines and shall become part of the General Fund of the State.

7. This act shall take effect on the 30th day after enactment.

Approved September 11, 1987.

CHAPTER 270

AN ACT concerning retreat lodging facilities and amending and supplementing the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76.

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

1. Section 3 of P.L. 1967, c. 76 (C. 55:13A-3) is amended to read as follows:

C. 55:13A-3 Definitions.

3. The following terms whenever used or referred to in this act shall have the following respective meanings for the purposes of this act, except in those instances where the context clearly indicates otherwise:

(a) The term "act" shall mean this act, any amendments or supplements thereto, and any rules and regulations promulgated thereunder.

(b) The term "accessory building" shall mean any building which is used in conjunction with the main building of a hotel, whether separate therefrom or adjoining thereto.

(c) The term "board" shall mean the Hotel and Multiple Dwelling Health and Safety Board created by subsection (a) of section 5 of this act in the Division of Housing and Development of the Department of Community Affairs.

(d) The term "bureau" shall mean the Bureau of Housing Inspection in the Division of Housing and Development of the Department of Community Affairs.

(e) (Deleted by amendment.)

(f) The term "commissioner" shall mean the Commissioner of the Department of Community Affairs.

(g) The term "department" shall mean the Department of Community Affairs.

(h) The term "unit of dwelling space" or the term "dwelling unit" shall mean any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or

any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

(i) The term "protective equipment" shall mean any equipment, device, system or apparatus, whether manual, mechanical, electrical or otherwise, permitted or required by the commissioner to be constructed or installed in any hotel or multiple dwelling for the protection of the occupants or intended occupants thereof, or of the public generally.

(j) The term "hotel" shall mean any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient or permanent guests.

This definition shall also mean and include any hotel, motor hotel, motel, or established guesthouse, which is commonly regarded as a hotel, motor hotel, motel, or established guesthouse, as the case may be, in the community in which it is located; provided, that this definition shall not be construed to include any building or structure defined as a multiple dwelling in this act, registered as a multiple dwelling with the Commissioner of Community Affairs as hereinafter provided, and occupied or intended to be occupied as such nor shall this definition be construed to include a rooming house or a boarding house as defined in the "Rooming and Boarding House Act of 1979," P.L. 1979, c. 496 (C. 55:13B-1 et al.) or, except as otherwise set forth in P.L. 1987, c. 270 (C. 55:13A-12.1 et al.), any retreat lodging facility, as defined in this section.

(k) The term "multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied by three or more persons who live independently of each other. This definition shall also mean any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. This definition shall not be construed to include any building or

structure defined as a hotel in this act, or registered as a hotel with the Commissioner of Community Affairs as hereinafter provided, or occupied or intended to be occupied exclusively as such; nor shall this definition be construed to include any building section containing not more than two dwelling units held under a condominium or cooperative form of ownership, or by a mutual housing corporation, where all the dwelling units in the section are occupied by their owners, if a condominium, or by shareholders in the cooperative or mutual housing corporation, and where such building section has at least two exterior walls unattached to any adjoining building section and is attached to any adjoining building sections exclusively by walls of such fire-resistant rating as shall be established by the bureau in conformity with recognized standards; nor any building of three stories or less, owned or controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community as same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L. 1969, c. 215 (C. 45:22A-1 et seq.), provided that the corporation meets the requirements of section 2 of this amendatory and supplementary act.

(l) The term "owner" shall mean the person who owns, purports to own, or exercises control of any hotel or multiple dwelling.

(m) The term "person" shall mean any individual, corporation, association, or other entity, as defined in R.S. 1:1-2.

(n) The term "continuing violation" shall mean any violation of this act or any regulation promulgated thereunder, where notice is served within two years of the date of service of a previous notice and where violation, premises and person cited in both notices are substantially identical.

(o) The term "project" shall mean a group of buildings subject to the provisions of this act, which are or are represented to be under common or substantially common ownership and which stand on a single parcel of land or parcels of land which are contiguous and which group of buildings is named, designated or advertised as a common entity. The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

(p) The term "mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of Title VI, §607 of the "Lanham Public War Housing Act," 54 Stat. 1125, 42 U.S.C. §1501 et seq.,

as amended, which acquired a National Defense Housing Project pursuant to said act.

(q) "Condominium" means the form of ownership so defined in the "Condominium Act," P.L. 1969, c. 257 (C. 46:8B-1 et seq.).

(r) "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

(s) "Retreat lodging facility" means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices of one or more corporations or associations having tax-exempt charitable status under the federal Internal Revenue Code, which are made available without any mandatory charge to such participants.

C. 55:13A-12.1 Retreat lodging facilities.

2. (New section) Retreat lodging facilities shall be subject to registration pursuant to section 12 of P.L. 1967, c. 76 (C. 55:13A-12) in the same manner as hotels; provided, however, that the certificate of registration shall designate the building as a retreat lodging facility.

C. 55:13A-13.2 Fee exemption.

3. (New section) No fee shall be charged for the inspection of any retreat lodging facility, as otherwise required pursuant to section 13 of P.L. 1967, c. 76 (C. 55:13A-13).

C. 55:13A-7.5 Internal security exemption.

4. (New section) No regulation establishing unit door or other internal security requirements or any other requirement not substantially related to the protection of the health, safety or welfare of occupants or of the public generally shall be enforced in any retreat lodging facility.

C. 55:13A-7.6 Applicable provisions.

5. (New section) Except as otherwise set forth in sections 2, 3 and 4 of P.L. 1987, c. 270 (C. 55:13A-12.1 et al.), all provisions of P.L.

1967, c. 76 (C. 55:13A-1 et seq.), as amended and supplemented, and of the regulations pursuant thereto, shall be applicable to retreat lodging facilities in the same manner as to hotels.

6. This act shall take effect immediately and shall be retroactive to January 1, 1985.

Approved September 11, 1987.

CHAPTER 271

AN ACT concerning certain county park police and supplementing chapter 37 of Title 40 of the Revised Statutes.

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

C. 40:37-11.6 Abolition of county park police force.

1. a. When the governing body of a county abolishes a county park commission, the governing body may, in its discretion, abolish any county park police force which had been established by that county park commission. Upon the abolition of a county park police force, the governing body of the county shall authorize the county sheriff to assign and supervise an appropriate number of sheriff's officers to perform security duties for the county parks, provided that the appropriate number of officers assigned to perform security duties for county parks shall include all of the former county park police officers who were transferred and given appointments as sheriff's officers pursuant to subsection b. of this section. In assigning the appropriate number of officers to perform security duties in county parks, the sheriff shall determine the appropriate table of organization, the number of officers to be assigned above the number of former county park police officers, the rank of the officers and any other rules and regulations the sheriff shall deem appropriate.

The sheriff shall not assign a county park police officer who was transferred and given an appointment as a sheriff's officer pursuant to subsection b. of this section to duties other than security duties in county parks without the consent of that officer. Any officer assigned by the sheriff to perform park security duties shall maintain all the powers of a sheriff's officer as provided by law and, in addition, shall acquire the power to preserve order in the county parks, to secure and enforce the rules and regulations established for the coun-

ty parks, and to protect life and property in the county parks. A county park police officer who was transferred and given an appointment as a sheriff's officer shall retain all of the police power and authority that the officer had as a county park police officer prior to the appointment as a sheriff's officer, including any authority to bear and use a firearm.

b. Notwithstanding any other provision of law to the contrary, when a county park police force is abolished, any county park police officer who was appointed and in service on or before the date on which the force is abolished shall be transferred to the county sheriff's department and shall receive an immediate appointment as a sheriff's officer. Such a new sheriff's officer shall acquire all of the civil service rights and benefits which correspond to his new rank within the sheriff's department and shall receive the compensation and other monetary benefits corresponding to that rank. A county park police officer who receives an appointment as a sheriff's officer and who has not yet been certified by the Police Training Commission within the Department of Law and Public Safety as having satisfactorily completed a police training program shall meet all the training requirements for a sheriff's officer within six months of the date of appointment.

Upon appointment as a sheriff's officer pursuant to this subsection, a county park police officer with the rank of chief may be demoted no more than one rank. A county park police officer with the rank of captain may be demoted to the rank of lieutenant, an officer with the rank of lieutenant may be demoted to the rank of sergeant, and any other officer shall not be demoted to a rank lower than a sergeant upon appointment as a sheriff's officer.

c. The provisions of this section shall be controlling over any provision of current law which is inconsistent with the provisions of this section in situations where a county park police force has been abolished and the county sheriff has been authorized to provide security for county parks. It is the purpose of this act that a county park police officer shall be appointed as a sheriff's officer without any loss of seniority rights, or impairment of tenure or retirement system rights.

d. Upon the enactment of this section into law, a county park police officer with the rank of chief shall be given the option of becoming a sheriff's officer pursuant to the provisions of this section or of retiring from service. If the chief elects retirement, he shall not be demoted but shall retain the rank of chief and shall be given

terminal leave for a period of one month for each five year period of past service as a county park police officer. During the terminal leave, the chief shall continue to receive full compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

2. This act shall take effect immediately.

Approved September 11, 1987.

CHAPTER 272

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, 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

05-2530 Support of the Arts \$100,000

Special Purpose:

Park Theatre Performing Arts

Center (\$100,000)

2. This act shall take effect immediately.

Approved September 11, 1987.

CHAPTER 273

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, 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	
05-2530 Support of the Arts	\$50,000
Special Purpose:	
Monmouth Arts Center	(\$50,000)

2. This act shall take effect immediately.

Approved September 11, 1987.

CHAPTER 274

AN ACT concerning motor vehicle franchises and amending P.L. 1982, c. 156.

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

1. Section 9 of P.L. 1982, c. 156 (C. 56:10-24) is amended to read as follows:

C. 56:10-24 Parties responsible for own costs.

9. In any administrative proceeding under this act, each party shall be responsible for his own litigation costs and attorney fees. The committee shall assess and equally apportion among the parties to the hearing, and shall transfer to the Office of Administrative Law, the administrative hearing costs resulting from a protest filed

pursuant to this act. Administrative hearing costs shall be based on a billing rate established by the Office of Administrative Law and approved by the Director of Budget and Accounting.

2. This act shall take effect immediately and shall apply to every administrative proceeding pending on or commenced after the effective date.

Approved September 11, 1987.

CHAPTER 275

AN ACT to amend the "New Jersey Public Purpose Buildings Construction Bond Act of 1980," P.L. 1980, c. 119, to redesignate the purpose of \$10,000,000.00 in bond revenues which were authorized for the establishment of a loan guarantee fund to encourage the construction of long-term care facilities; to construct public purpose buildings for the mentally ill; providing for the submission of this act to the people at a general election; and making an appropriation.

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

1. Section 2 of P.L. 1980, c. 119 is amended to read as follows:
2. The Legislature hereby finds that:
 - a. The State of New Jersey requires an immediate program to provide safe and humane facilities for persons who require institutionalization or extended care.
 - b. The State of New Jersey requires an immediate and integrated program for the improvement, rehabilitation, and construction of institutions for the aged, disabled veterans, the mentally ill, the mentally retarded, children in need of supervision and the incarcerated.
 - c. (Deleted by amendment, P.L. 1987, c. 275.)
 - d. The State of New Jersey requires an immediate program for the construction of institutions for the mentally retarded in conjunction with the Federal Program for Intermediate Care Facilities/Mentally Retarded.

e. The State of New Jersey requires an immediate program for the construction of additional long-term care facilities for veterans in conjunction with the Federal State Home Construction Program.

f. The State of New Jersey requires an immediate program for the construction of additional facilities for the incarcerated.

g. Implementation of such programs will be a substantial step toward meeting the immediate and critical needs of the people of the State, will substantially further the public interest, and can be most economically financed through a bond issue.

2. Section 3 of P.L. 1980, c. 119 is amended to read as follows:

3. Except as the context may otherwise require:

a. "Commission" means the New Jersey Commission on Capital Budgeting and Planning.

b. "Construction" means the planning, erection, acquisition, improvement, rehabilitation, construction, reconstruction, development, extension, demolition, and equipment of public buildings or institutions including all equipment and facilities necessary to the operation thereof and includes the acquisition of land necessary for said purposes.

c. "Public purpose buildings" means (1) structures, institutions or facilities under the supervision or control of the Department of Corrections or the Department of Human Services; (2) structures, institutions or facilities necessary for the operation of State, county, municipal or private programs for the mentally retarded, the mentally ill, the developmentally disabled, or the aged; and (3) long-term care facilities licensed by the Department of Health which are in conformance with rules and regulations promulgated by the Department of Human Services.

3. Section 5 of P.L. 1980, c. 119 is amended to read as follows:

5. Bonds of the State of New Jersey in the sum of \$159,000,000.00 are hereby authorized for the construction of public purpose buildings as defined herein. Of such total, the proceeds from the sale of bonds shall be allocated, to the maximum extent practicable and feasible, according to the following estimates of costs:

a. For construction and improvement of public buildings for the mentally retarded in conjunction with the Federal Program for Intermediate Care Facilities/Mentally Retarded, to be implemented by the Department of Human Services—\$50 million.

b. For improvements and additions to facilities for the mentally ill, to be implemented by the Department of Human Services—\$31.5 million.

c. For improvements and additions to facilities for children in need of supervision, to be implemented by the Department of Human Services—\$3.5 million.

d. For construction of additional long-term care facilities for disabled veterans in conjunction with the Federal State Home Construction Program, to be implemented by the Department of Human Services upon commitment of Federal matching funds—\$7 million.

e. (Deleted by amendment, P.L. 1987, c. 275.)

f. For repair, renovation and construction of facilities for the incarcerated, to be implemented by the Department of Corrections—\$67 million.

4. Section 14 of P.L. 1980, c. 119 is amended to read as follows:

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer and be held by him in a separate fund and be deposited with such depositories as may be selected by him to the credit of the fund, which fund shall be known as the "Public Purpose Buildings Construction Fund."

5. Section 15 of P.L. 1980, c. 119 is amended to read as follows:

15. a. The moneys in the "Public Purpose Buildings Construction 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 hereby appropriated for such purposes, and no such moneys shall be expended for such purposes (except as otherwise hereinbelow authorized) without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided notwithstanding that the Legislature shall not have then adopted an act making specific appropriation of any of the moneys.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available money in the treasury of the State to the credit of the "Public Purpose Buildings Construction Fund" such sum as he may deem necessary. The sum transferred shall be returned to the treasury of this State by the treasurer thereof from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purpose provided in this act, moneys in the "Public Purpose Buildings Construction Fund" may be invested and reinvested as 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 such fund shall be paid into the General State Fund.

6. 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 month of November, 1987. 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 the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove 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.	USE OF 1980 PUBLIC PURPOSE BUILDINGS CONSTRUCTION BOND MONEYS FOR THE MENTALLY ILL Shall the \$10,000,000.00 bond authorization remaining unappropriated from "New Jersey Public Purpose Buildings Construction Bond Act of 1980," P.L. 1980, c. 119, that was originally designated for the creation of a loan guarantee fund, be redesignated to allow the Department of Human Services to construct and improve facilities for the mentally ill, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act will authorize a different use for \$10,000,000.00 in bond funds which were originally authorized by the voters in 1980 for the

		purpose of creating a loan guarantee fund to encourage the development of nursing homes. The \$10,000,000.00 was not used for this purpose because it was determined that with lower interest rates and the availability of alternative sources of financing, the creation of a State loan guarantee fund was not necessary. This act would redesignate the \$10,000,000.00 authorization to permit the Department of Human Services to construct and improve facilities serving the mentally ill.

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.

7. 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 6 of this act.

8. This section and sections 6 and 7 shall take effect immediately and the remainder of the act shall take effect as and when provided in section 6.

Approved September 11, 1987.

CHAPTER 276

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$185,000,000.00 for the purpose of providing for the acquisition and construction of a major league baseball stadium by the New Jersey Sports and Exposition Authority, ownership thereof to be conveyed to the State upon the completion thereof and to be operated by the authority pursuant to a lease or other agreement with the State, including land necessary for the stadium and for other projects of the New Jersey Sports and Exposition Authority which may be constructed on the site of the stadium; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal of and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation 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 "New Jersey Baseball Stadium Bond Act of 1987."

2. The Legislature finds and declares that:

a. The general welfare, health and prosperity of the people of New Jersey would be promoted and enhanced by the presence of a major league baseball team which plays its home games in the State.

b. The construction of a baseball stadium and the location of a major league baseball team in the State would provide jobs, increase revenues, attract visitors to the State and stimulate the State's economy.

c. The enjoyment of a major league baseball team located within the State would provide a much needed and valuable family activity for the residents of the State.

d. In order to attract a major league baseball team to locate in the State, it is necessary to provide for the construction of a stadium and related facilities suitable for the requirements of a major league baseball team.

e. The stadium, related facilities and other projects as may be undertaken by the New Jersey Sports and Exposition Authority on

the stadium site also would accommodate other events and serve uses which would provide needed recreation, forums and expositions for the public.

f. The New Jersey Sports and Exposition Authority is a public body corporate and politic of the State which was created for the purpose of establishing and operating stadiums and other facilities for the holding of spectator sports, expositions and other public events and, therefore, it is in the public interest that the authority construct and operate the baseball stadium to be constructed with the proceeds of the bonds authorized by this act.

3. As used in this act:

a. "Authority" means the New Jersey Sports and Exposition Authority established by section 4 of the "New Jersey Sports and Exposition Authority Law," P.L. 1971, c. 137 (C. 5:10-4).

b. "Baseball stadium" means a facility to be acquired and constructed by the authority, the ownership thereof to be conveyed to the State upon completion, and to be operated by the authority pursuant to a lease or other agreement with the State, at a site within the State of New Jersey, consisting of a baseball stadium and other buildings, structures, facilities, properties, easements, utilities and appurtenances related thereto, or incidental to, necessary for, or complementary to, a complex suitable for the holding of baseball games and other athletic contests or sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to, the purposes of that facility, and including any land necessary for the foregoing and for any additions or improvements thereto, and land necessary for other projects of the authority which may be constructed on the site.

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

d. "Commitment" means any necessary written agreements, contracts, leases, licenses, releases, waivers, orders, judgments and other documents executed by all relevant parties, including but not limited to a major league baseball team, other major league baseball teams and the major leagues, which, in the determination of the State

Treasurer, the President of the Senate, and the Speaker of the General Assembly, evidence the obligation of a major league baseball team to locate in the State, to use the words "New Jersey" as part of the team name, and play its home games in a baseball stadium to be constructed with the proceeds of the bonds issued pursuant to this act.

e. "Construction" means the planning, development, erection, acquisition, improvement, construction, reconstruction, extension, rehabilitation, demolition and equipment of a baseball stadium and related facilities, including all equipment and facilities necessary to the operation thereof, and includes the acquisition of land necessary for those purposes.

f. "Cost" or "costs" means the expenses necessary, useful or convenient, as determined by the State Treasurer, incurred for the acquisition by purchase, lease or otherwise, and the development and construction of a baseball stadium, and of any real or personal property for use in connection therewith, including any rights or interest therein; the issuance of bonds, or any interest or discount thereon; the procurement of the services of a bond registrar or an authenticating agent, administrative costs, geological and hydrological services, planning, engineering and inspection, legal, financial, professional and other estimates and advice, organizational, operating and other expenses prior to and during acquisition or construction, and all other expenses as may be necessary or incident to the financing, acquisition, construction and completion of a baseball stadium or part thereof and the placing of the same in operation, and also the establishment of a reserve fund or funds for working capital, operating, maintenance or replacement expenses and for payment or security of principal of or interest on bonds as the State Treasurer may determine.

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 of America, including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations.

h. "Major league" means the American League or the National League of major league baseball, or any successor leagues thereto,

or any leagues resulting from a restructuring of major league baseball.

i. "Project" means any project which the authority is authorized to undertake pursuant to the "New Jersey Sports and Exposition Authority Law," P.L. 1971, c. 137 (C. 5:10-1 et seq.).

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

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$185,000,000.00 for the purpose of providing for the cost, as defined in subsection f. of section 3 of this act, of the acquisition and construction of a baseball stadium, including the land necessary for the baseball stadium and land necessary for other projects of the New Jersey Sports and Exposition Authority which may be constructed on the site of the stadium, to be acquired and constructed by the authority, ownership of the baseball stadium and land to be conveyed to the State upon completion, and to be operated by the authority pursuant to a lease or other agreement with the State containing such terms and conditions as the State Treasurer may establish prior to the acquisition and construction by the authority of the baseball stadium and the disbursement of any funds therefor.

b. Bonds shall not be issued under this act unless there shall exist a commitment, as defined in subsection d. of section 3 of this act, that a major league baseball team will locate in the State and play its home games in the baseball stadium to be constructed with the proceeds of the bonds.

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "New Jersey Baseball Stadium Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an

issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

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

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, 1987, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

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

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

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

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

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer to be held by the State Treasurer in a separate fund, which shall be known as the "New Jersey Baseball Stadium Fund." The proceeds of this fund shall be deposited in those depositories as may be selected by the State Treasurer to the credit of the fund.

15. a. The moneys in the "New Jersey Baseball Stadium Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act. However, no moneys in the fund shall be expended for those purposes, except as otherwise

authorized by this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making specific appropriation of any of the moneys. Any act appropriating moneys from the "New Jersey Baseball Stadium Fund" shall identify the project to be funded by the moneys.

b. Notwithstanding any other provision of law, prior to the specific appropriation of funds from the "New Jersey Baseball Stadium Fund," a lease or other agreement providing for the construction and operation of the baseball stadium shall be executed by the authority and the State. However, no such lease or other agreement shall be executed unless it shall have received the prior written consent of the State Treasurer, the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly, and there is set forth therein a provision that a minimum of 10% of the total seating available for attendance at major league baseball games be available to the public through general admission ticket sales.

c. At any time prior to the issuance and sale of bonds under this act, but subsequent to the determination pursuant to this act that a commitment has been obtained, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "New Jersey Baseball Stadium Fund" those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

d. Pending their application to the purposes provided in this act, the moneys in the "New Jersey Baseball Stadium Fund" may be invested and reinvested as other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the "New Jersey Baseball Stadium Fund" shall be paid into the General Fund.

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. The issuing officials may issue refunding bonds in an amount not to exceed the amount necessary to effectuate the refinancing of any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at any time at or prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine.

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on the bonds to be refinanced to the date of payment of the outstanding bonds, the expense of issuing the refunding bonds and the expenses, if any, of paying the bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal amount of and interest on the refunding bonds is less than the present value of the aggregate principal amount of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual

compounding and upon the price or prices paid to the State by the initial purchasers of those refunding bonds.

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on those bonds to be refinanced to the date of payment of those bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying the bonds to be refinanced, or, to the extent not required for that immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. The proceeds or moneys so held by the trustees or escrow agents may be invested in government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States; provided those government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from the principal or interest payments on those government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the trustees or escrow agents, and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced, on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from those reinvestments, to the extent not required for the payment of bonds, shall be paid over to the State, as received by the trustees or escrow agents. Notwithstanding anything to the contrary con-

tained herein: (1) the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (a) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all outstanding bonds so purchased or (b) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the outstanding bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of the outstanding bonds or any purchases of different government securities as provided in this subsection, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on those remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of that excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of, redemption premium, if any, and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents, as provided herein, to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on those bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of, redemption premium, if any, and interest on refunding bonds issued hereunder to refinance those bonds. The State Treasurer is authorized to enter into contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents, as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 12 of this act, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance of that series of refunding bonds, and those refunding bonds may be sold at public or private sale at prices and under terms, conditions and regulations as the issuing officials may 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 Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report also shall disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The committee shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations

and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

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, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to

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

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.), or so much thereof as may be required; and

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

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

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, the same to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

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, 1987. 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 cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of the State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

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

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

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

		NEW JERSEY BASEBALL STADIUM BOND ACT OF 1987 Yes. Shall the "New Jersey Baseball Stadium Bond Act of 1987" which authorizes the State to issue bonds in the amount of \$185,000,000.00 for the purpose of providing funds for the acquisition and construction by the New Jersey Sports and Exposition Authority of a major league baseball stadium located in the State, the ownership thereof to be conveyed to the State upon comple- No.

		tion, and to be operated by the Authority pursuant to a lease or other agreement with the State, including the land necessary for the stadium and land necessary for other projects of the authority which may be constructed on the site of the stadium; and in a principal amount sufficient to refinance any of the bonds of the same will result in a present value savings; and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof; and which prohibits the issuance of these bonds until a commitment is obtained from a major league baseball team to locate in the State, to use the words "New Jersey" as part of the team name, and use the baseball stadium for its home games, be approved?
		INTERPRETIVE STATEMENT Approval of this act would authorize the sale of \$185,000,000.00 in State general obligation bonds to provide funds for the acquisition and construction by the New Jersey Sports and Exposition Authority of a major league baseball stadium to be located in the State, the ownership of which is to be conveyed to the State upon completion and operated by the authority, including the land necessary for the stadium and land necessary for other projects of the authority which may be constructed on the site of the stadium. These bonds may not be sold until a commitment is obtained from a major league baseball team to locate in the State, to use the words "New Jersey" as part of the team name, and use the baseball stadium for its home games. The act also authorizes the issuance of bonds in a sufficient amount to refinance all or any of these bonds if the same will result in a present value savings. The construction and operation of a baseball stadium will create jobs and produce additional revenues for the State.

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

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

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 authority shall submit to the State Treasurer a plan for the expenditure of funds pursuant to section 5 of this act from the "New Jersey Baseball Stadium Fund" for each fiscal year during which expenditures are anticipated. The plans shall include such information as the State Treasurer may request.

27. This section and sections 24 and 25 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in section 24.

Approved September 17, 1987.

CHAPTER 277

AN ACT to amend "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," approved January 21, 1986 (P.L. 1985, c. 542).

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

1. Section 3 of P.L. 1985, c. 542 is amended to read as follows:

3. It shall be the duty of the commission to study and make recommendations concerning: a. appropriate legislation to create a Statewide 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 13 months following the initiation of the second phase.

2. This act shall take effect immediately.

Approved September 22, 1987.

CHAPTER 278

AN ACT concerning certain authorities, commissions and agencies and supplementing Title 59 of the New Jersey Statutes.

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

C. 59:10-5 Tort claims coverage.

1. State authorities, State commissions and State agencies which are authorized by statute to sue and be sued may obtain coverage for liability and representation by the Attorney General's Office for defense of liability cases under the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq., for themselves and their public employees from the fund established under N.J.S. 58:12-1 when:

a. The governing body of the authority, commission or agency petitions the State Treasurer and the Attorney General for such coverage; and

b. The State Treasurer and the Attorney General determine that such coverage would be in the public interest and that adequate coverage is unavailable at reasonable rates.

C. 59:10-6 Limitations.

2. Coverage afforded pursuant to this supplementary act shall provide indemnification for awards within the limitations of the "New Jersey Tort Claims Act."

C. 59:10-7 Expiration; renewal.

3. Coverage afforded pursuant to this supplementary act shall expire on the 30th day of June following the approval of coverage. Coverage may be extended for additional one year terms on conditions fixed by the State Treasurer and the Attorney General, provided that for each renewal they determine that coverage would be in the public interest and that adequate coverage is unavailable at reasonable rates.

C. 59:10-8 Fees; control of litigation.

4. The State Treasurer and the Attorney General shall have the power to set annual fees and charges payable by the authority, commission or agency for coverage and fix monetary limits on the extent of coverage to be afforded an authority, commission or agency and its employees shall cooperate with the Attorney General in the defense of all covered claims. The Attorney General shall have the exclusive right to control all such litigation.

C. 59:10-9 Insurance, indemnity unaffected.

5. Nothing contained in this supplementary act shall inure to the benefit of any insurance company which has issued a policy of liability insurance or to any person who is obligated to indemnify a public entity or public employee.

6. This act shall take effect immediately.

Approved October 2, 1987.

CHAPTER 279

AN ACT empowering the waterfront and airport commission of New York and New Jersey to exempt certain classes of persons from the periodic closing and reopening of the longshoremen's register and amending P.L. 1966, c. 18.

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

1. Section 2 (5-p) of P.L. 1966, c. 18 (C. 32:23-114) is amended to read as follows:

C. 32:23-114 Longshoremen's register; closing, reopening.

2. 5-p 1. The commission shall suspend the acceptance of applications for inclusion in the longshoremen's register for a period of 60 days after the effective date of this act. Upon the termination of such 60 day period the commission shall thereafter have the power to make determinations to suspend the acceptance of applications for inclusion in the longshoremen's register for such periods of time as the commission may from time to time establish and, after any such period of suspension, the commission shall have the power to make determinations to accept applications, which shall be processed in the order in which they are filed with the commission, for such period of time as the commission may establish or in such number as the commission may determine, or both. Such determinations to suspend or accept applications shall be made by the commission on its own initiative or upon the joint recommendation in writing of stevedores and other employers of longshoremen in the Port of New York District, acting through their representative for the purposes of collective bargaining with a labor organization representing such longshoremen in such district and such labor organization, which joint recommendation the commission shall have the power to accept or reject.

2. In administering the provisions of this section, the commission shall observe the following standards:

(a) To encourage as far as practicable the regularization of the employment of longshoremen;

(b) To bring the number of eligible longshoremen into balance with the demand for longshoremen's services within the Port of New York District without reducing the number of eligible longshoremen below that necessary to meet the requirements of longshoremen in the Port of New York District;

(c) To encourage the mobility and full utilization of the existing work force of longshoremen;

(d) To protect the job security of the existing work force of longshoremen;

(e) To eliminate oppressive and evil hiring practices injurious to waterfront labor and waterborne commerce in the Port of New York District, including, but not limited to, those oppressive and evil hiring practices that may result from either a surplus or shortage of waterfront labor;

(f) To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination.

In observing the foregoing standards and before determining to suspend or accept applications for inclusion in the longshoremen's register, the commission shall consult with and consider the views of, including any statistical data or other factual information concerning the size of the longshoremen's register submitted by, carriers of freight by water, stevedores, waterfront terminal owners and operators, any labor organization representing employees registered by the commission, and any other person whose interests may be affected by the size of the longshoremen's register.

3. Any determination by the commission pursuant to this section to suspend or accept applications for inclusion in the longshoremen's register shall be made upon a record, shall not become effective until five days after notice thereof to the collective bargaining representative of stevedores and other employers of longshoremen in the Port of New York District and to the labor organization representing such longshoremen and shall be subject to judicial review for being arbitrary, capricious, and an abuse of discretion in a proceeding jointly instituted by such representative and such labor organization. Such

judicial review proceeding may be instituted in either state in the manner provided by the law of such state for review of the final decision or action of administrative agencies of such state, provided, however, that such proceeding shall be decided directly by the appellate division as the court of first instance (to which the proceeding shall be transferred by order of transfer by the Supreme Court in the State of New York or in the State of New Jersey by notice of appeal from the commission's determination), and provided further that notwithstanding any other provision of law in either state no court shall have power to stay the commission's determination prior to final judicial decision for more than 15 days. In the event that the court enters a final order setting aside the determination by the commission to accept applications for inclusion in the longshoremen's register, the registration of any longshoremen included in the longshoremen's register as a result of such determination by the commission shall be canceled.

This section shall apply, notwithstanding any other provision of this act, provided, however, such action shall not in any way limit or restrict the provision of section 5 of article IX of this act empowering the commission to register longshoremen on a temporary basis to meet special or emergency needs or the provisions of section 4 of article IX of this act relating to the immediate reinstatement of persons removed from the longshoremen's register pursuant to article IX of this act. Nothing in this section shall be construed to modify, limit or restrict in any way any of the rights protected by article XV of this act.

4. Notwithstanding any other provision of this act, the commission may include in the longshoremen's register under such terms and conditions as the commission may prescribe:

(a) A person issued registration on a temporary basis to meet special or emergency needs, who, on the effective date of this act, is still so registered by the commission;

(b) A person defined as a "longshoreman" in subdivision (6) of section 1 (5-a) of P.L. 1954, c. 14 (C. 32:23-85), who is employed by a stevedore as defined in paragraph (b) or (c) of subdivision (1) of the same section (C. 32:23-85) and whose employment is not subject to the guaranteed annual income provisions of any collective bargaining agreement relating to longshoremen; and

(c) No more than 20 persons issued and holding registration pursuant to paragraph (b) of this subdivision who are limited to

acting as scalemen and who are no longer employed as scalemen on the effective date of this 1987 amendatory act.

2. This act shall take effect upon the enactment into law by the state of New York of legislation having an identical effect with this act, but if the state of New York shall have already enacted such legislation, then it shall take effect immediately.

Approved October 2, 1987.

CHAPTER 280

AN ACT concerning the inspection of certain motor vehicle repairs, and supplementing Title 39 of the Revised Statutes.

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

C. 39:13-8 Auto body repair statement.

1. a. When a motor vehicle is repaired by an auto body repair facility as a result of damage to the vehicle and (1) the damage is reimbursable under a policy of insurance under physical damage coverage, property damage coverage, or comprehensive coverage; and (2) the proceeds of the reimbursement are in the form of a negotiable instrument issued by an insurer which is payable jointly to the insured and a lienholder or lessor, the auto body repair facility shall provide the lienholder or lessor with a statement of the repairs which have been made to the vehicle, which statement shall be attested by an authorized representative of the auto body repair facility. The statement shall constitute proof to the lienholder or lessor that all repairs have been made by an auto body repair facility. A color photograph of the repaired vehicle shall accompany the statement.

b. In the event that any lienholder or lessor should wish to inspect any motor vehicle to which repairs have been made as provided in subsection a. of this section, the lienholder or lessor shall conduct the inspection upon the premises of the auto body repair facility within seven business days after receipt of the notice by certified mail that the repair has been completed. If an inspection is not made by a lienholder or lessor within the seven-day period provided herein, the lienholder or lessor shall forfeit the right to make an inspection.

For the purposes of this act, "auto body repair facility" shall mean an auto body repair facility as defined in section 1 of P.L. 1983, c. 360 (C. 39:13-1).

2. This act shall take effect immediately.

Approved October 6, 1987.

CHAPTER 281

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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 expenditures listed below are available, the following sum is appropriated:

FEDERAL FUNDS
46 DEPARTMENT OF HEALTH
20 Physical and Mental Health
21 Health Services

04-4240 Narcotics and Drug	
Abuse Control	\$1,532,748
Special Purpose:	
Drugs for persons with AIDS	(\$1,532,748)

2. This act shall take effect immediately.

Approved October 6, 1987.

CHAPTER 282

AN ACT establishing the REACH program in the Department of Human Services and supplementing P.L. 1959, c. 86 (C. 44:10-1 et seq.).

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

C. 44:10-9 Short title.

1. This act shall be known and may be cited as the "REACH Program Act."

C. 44:10-10 Findings, declarations.

2. The Legislature finds and declares: that providing the means and opportunity for recipients of public assistance to enter the economic mainstream and to realize economic achievement is both a morally right and economically sound investment in the future of our economy, our labor force and our children; that our current welfare system does not do enough to help its recipients become economically self-sufficient even though most people who receive public assistance would rather work or prepare for work than remain indefinitely trapped in the oppressive cycle of welfare dependency; that in this time of increasing international economic competition, the productivity of every worker and potential worker is an important concern for all Americans; that our citizenry has always placed great value on work and self-reliance; and that this State should provide the relevant education, training, employment and supportive services necessary to enable public assistance recipients to realize economic achievement and thereby become self-sufficient.

C. 44:10-11 Definitions.

3. As used in this act:

"Aid to families with dependent children" means the program established pursuant to P.L. 1959, c. 86 (C. 44:10-1 et seq.);

"Commissioner" means the Commissioner of the Department of Human Services;

"Recipient of aid to families with dependent children" means a parent or relative with whom a dependent child is living who is receiving benefits under the program of aid to families with dependent children.

C. 44:10-12 REACH program.

4. The Commissioner of Human Services, in consultation with

the Commissioners of Labor, Education, Community Affairs, and Commerce and Economic Development, and the Chancellor of Higher Education, shall establish the "Program for Realizing Economic Achievement," hereinafter referred to as the REACH program, in the Division of Public Welfare in the Department of Human Services for the purpose of enabling recipients of aid to families with dependent children to realize economic achievement through a range of education, training, employment and supportive services, while also focusing on the prevention of long-term dependency for young mothers who are recipients of aid to families with dependent children.

C. 44:10-13 Powers, duties of commissioner.

5. The Commissioner of Human Services, in consultation with the Commissioners of Labor, Education, Community Affairs, and Commerce and Economic Development, and the Chancellor of Higher Education, shall:

a. Adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), necessary to effectuate the purposes of this act; except that no rule or regulation adopted pursuant to this act shall be more restrictive than any provision of federal law, regulations or waiver authority with respect to the employment or training of recipients of aid to families with dependent children;

b. Take such actions as are required to ensure that services provided under the REACH program are integrated, to the extent necessary to effectuate the purposes of this act, with employment or training programs provided pursuant to chapter 15B of Title 34 of the Revised Statutes, or with any other federal, State or private program which provides employment, training or vocational services, or a combination thereof;

c. Request from the United States Secretary of Health and Human Services such waivers of federal regulations as are necessary to provide supportive services pursuant to subsection e. of section 7 of this act to facilitate the training or employment of recipients of aid to families with dependent children under the REACH program;

d. Develop a schedule for the implementation of the REACH program Statewide which will ensure that every county is participating in the program no later than three years after the effective date of this act;

e. Develop guidelines to ensure that a current recipient of aid to families with dependent children who resides in a county in which the REACH program is operational and who requests to participate in the REACH program before the program is fully implemented in that recipient's county of residence, receives an evaluation pursuant to section 7 of this act within a reasonable period of time; and

f. Seek such grants of monies to fund the REACH program as are available from agencies of the United States Government or private foundations.

C. 44:10-14 Registration of able-bodied aid recipients.

6. a. Every able-bodied prospective recipient of aid to families with dependent children in this State shall register with the REACH program at the time of enrollment as a recipient and shall participate in one or more program activities with the goal of obtaining permanent full-time unsubsidized employment, preferably in the private sector. An able-bodied current recipient of aid to families with dependent children who is receiving assistance on the effective date of this act shall register with the REACH program no later than three years after the effective date of this act, according to a Statewide implementation schedule for the REACH program established by the commissioner pursuant to section 5 of this act.

b. The commissioner shall adopt regulations which specify eligibility and participation requirements under the REACH program for able-bodied recipients of aid to families with dependent children. The regulations shall include exemptions from these requirements for reasons of physical or mental disability or extenuating family circumstances, in accordance with federal regulations.

c. An able-bodied recipient of aid to families with dependent children who without good cause, as determined by the commissioner, fails to comply with the provisions of this act is subject to a penalty to be determined by the commissioner, which may include the denial, reduction or termination of aid to families with dependent children benefits. The commissioner shall provide for an appropriate right of appeal under those circumstances.

C. 44:10-15 Individualized service plans.

7. a. Each participant in the REACH program shall receive educational, training or employment services and supportive services according to an individualized service plan which includes a written contract. The individualized service plan for each participant in the REACH program shall be designed by a designated representative

of the commissioner after interviewing the participant and shall be based upon an evaluation of the participant's employment skills and potential, educational background, job experience and interests, and need for supportive services. The contract shall be signed by the participant and the designated representative who shall act as a case manager for the participant, and shall set forth the specific mutual obligations of the participant and the State in the REACH program.

The service plan and contract shall be reviewed by both the participant and the designated representative at least every six months and may be revised from time to time according to the needs of both the participant and the State.

b. The designated representative acting as a case manager for the participant shall arrange for necessary education or training services, in addition to necessary supportive services, and shall monitor the participant's progress after placement in a job and be available to the participant, as needed.

c. The commissioner shall be responsible for providing, at a minimum, the following education, training and employment services under the REACH program: counseling and vocational assessment; intensive remedial education, including instruction in English as a second language; job search assistance; employment skills training focused on a specific job; on-the-job training in an employment setting; and job development and placement.

d. A participant in the REACH program shall be trained and placed in a job and field of employment which offers reasonable opportunities for employment security and upward mobility.

e. The commissioner shall be responsible for ensuring the availability of, and for providing, the following supportive services under the REACH program for a program participant when no other appropriate source is available therefor and when these services are specified in the contract as necessary to enable the participant to receive program services pursuant to subsection c. of this section. The supportive services shall include, but not be limited to, one or more of the following:

(1) child care services for the participant's child which may include care provided at a child care center licensed pursuant to P.L. 1983, c. 492 (C. 30:5B-1 et seq.) or a school age child care program, or at a family day care home approved by the Department of Human Services pursuant to P.L. 1987, c. 27 (C. 30:5B-16 et seq.) or through

alternative arrangements which are developed by the designated representative and the REACH participant according to guidelines established by the commissioner;

(2) transportation services, to be provided directly by the REACH program or through an allowance or other means of subsidy by which the participant may purchase transportation, which services may be designed and implemented by the Commissioner of Human Services in consultation with the Commissioner of Transportation; and

(3) health care coverage through a continuation of Medicaid benefits pursuant to P.L. 1968, c. 413 (C. 30:4D-1 et seq.) in accordance with the provisions of P.L. 1987, c. 283 (C. 30:4D-6b et seq.).

Child care services and health care coverage shall be provided to the participant for one year after the commencement of employment by the participant, as necessary. Transportation services may be provided to a participant after the commencement of employment for a limited period of time, but the amount of transportation services assistance shall be reduced, over time, according to a schedule adopted pursuant to regulation which is based on the length of time a participant is employed.

C. 44:10-16 County planning committees.

8. The Commissioner of Human Services shall establish the REACH program on a county-by-county basis according to a program implementation plan specifically designed to meet the needs of each county.

a. The commissioner shall establish a REACH planning committee in each county to determine the most effective way to plan and organize services in that county. The planning committee shall, at a minimum, include the following as voting members: the director of the county welfare agency; a representative of the board of chosen freeholders; a representative of the local Private Industry Council of the service delivery area established pursuant to the "Job Training Partnership Act," Pub.L. 97-300 (29 U.S.C. §1501 et al.), or of a successor entity as may be provided by federal law; and the chairperson of the county Human Services Advisory Council. The planning committee may also include as voting members the following: a representative of the local community college; a representative of the county vocational school; a representative of private business or industry in that county; two or more recipients of aid to families with dependent children residing in that county, whose costs of partici-

pation in the planning committee shall be borne by the REACH program; county residents who represent the nonprofit and religious communities in the county; and other agencies of the county government, as appropriate. In addition, the planning committee shall include as nonvoting members representatives of the following agencies: the Division of Public Welfare in the Department of Human Services, the Division of Employment Services in the Department of Labor, the Bureau of Adult Education in the Department of Education, the Division of Housing and Development in the Department of Community Affairs and the county representative of the Department of Human Services.

b. The committee shall develop a program implementation plan for the county which shall ensure that training, education and employment services provided by the REACH program in that county reflect local needs and resources and that supportive services provided to program participants utilize existing local arrangements wherever possible. The plan shall also designate a county agency to administer the REACH program in the county and to report to the commissioner on program implementation and effectiveness according to criteria and standards established by the commissioner.

c. Pursuant to the provisions of the program implementation plan, the commissioner may contract with a county government for the provision of some or all of the services under the REACH program or provide them directly.

d. The commissioner shall reimburse a county for 100% of the reasonable costs associated with administration of the REACH program and program services which are not reimbursed by the federal government.

C. 44:10-17 Reports.

9. a. The commissioner shall submit to the Senate Revenue, Finance and Appropriations Committee and the General Assembly Appropriations Committee, or their successor committees, and the Governor, at the earliest possible date, a REACH program implementation report, including, but not limited to, the following information: a detailed schedule for the implementation of each phase of the REACH program and a description of the services to be provided in each phase, as well as a precise estimate of the number of program participants during each phase of the program and the costs of implementing each phase.

b. The commissioner shall provide to the Assembly Appropria-

tions Committee and the Senate Revenue, Finance and Appropriations Committee, or their successor committees, on a quarterly basis a detailed report on the REACH program containing statistical and financial information. The report shall include, but not be limited to, the following information: the number of recipients of aid to families with dependent children who are participating in the program and the number who have been exempted from the program; the kinds of services being provided to program participants and the costs of those services; the number of designated representatives of the commissioner employed by the program and the costs associated with their employment; other administrative costs incurred by the program; the number of program participants who have obtained employment and the average hourly wage and benefits provided by their employers; and the average length of time that program participants remain employed. Each report shall be submitted no later than 60 days after the end of the quarter.

c. The Commissioner of Human Services, in consultation with the Commissioners of Labor, Education, Community Affairs, and Commerce and Economic Development, and the Chancellor of Higher Education, shall report to the Governor and the Legislature no later than two years after the effective date of this act, and annually thereafter, on the effectiveness of the REACH program in meeting its objectives, accompanying that report with any recommendations for changes in the law or regulations governing the REACH program that the commissioner deems necessary.

C. 44:10-18 Independent evaluation.

10. The commissioner shall provide for an independent evaluation of the REACH program by a private entity under contract with the Department of Human Services and shall, no later than three years after the effective date of this act, present to the Governor and the Legislature the results of that evaluation.

11. This act shall take effect immediately, but shall remain inoperative until the enactment into law of Senate Bill No. 2047 or Assembly Bill No. 4182 of 1986-1987 or a similar bill; and sections 1 through 8, inclusive, and section 10 shall remain inoperative until the submission by the commissioner to the Senate Revenue, Finance and Appropriations Committee and the General Assembly Appropriations Committee, or their successor committees, of the REACH program implementation report required pursuant to subsection a. of section 9 of this act.

Approved October 8, 1987.

CHAPTER 283

AN ACT extending Medicaid benefits for certain employed persons and supplementing P.L. 1968, c. 413 (C. 30:4D-1 et seq.).

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

C. 30:4D-6b Findings, declarations.

1. The Legislature finds and declares that: the protection afforded recipients of aid to families with dependent children (AFDC) pursuant to P.L. 1959, c. 86 (C. 44:10-1 et seq.), through the provision of health care coverage under the Medicaid program, established pursuant to P.L. 1968, c. 413 (C. 30:4D-1 et seq.), is a major disincentive to public assistance recipients who are considering employment; and while the federal government has recognized the relationship between medical coverage and successful employment initiatives through its policy of allowing limited extensions of Medicaid to former AFDC recipients who lose eligibility for both programs as a result of employment, only 12% of those entering employment receive Medicaid extensions for more than four months because of the strict income eligibility requirements.

The Legislature further finds and declares that: New Jersey's welfare reform program, known as REACH, aims to transform the present AFDC program, which is a payment system, into an employment and training program the goal of which is to assist New Jersey's welfare families to realize self-sufficiency; and, therefore, it is necessary to extend Medicaid coverage for a period of up to 12 months to those AFDC recipients who lose eligibility for AFDC and Medicaid as a result of employment obtained through the welfare program.

C. 30:4D-6c Continued Medicaid eligibility.

2. A person who becomes ineligible for financial assistance under the aid to families with dependent children program, P.L. 1959, c. 86 (C. 44:10-1 et seq.), due to earnings from, or increased hours of, employment, or receipt of benefits under the "unemployment compensation law," R.S. 43:21-1 et seq. or the "Temporary Disability Benefits Law," P.L. 1948, c. 110 (C. 43:21-25 et seq.), is eligible to continue receiving Medicaid benefits pursuant to P.L. 1968, c. 413 (C. 30:4D-1 et seq.) for a period of 12 consecutive months, commencing with the month in which eligibility for aid to families with dependent children ceases, if the person:

a. received financial assistance under the aid to families with dependent children program for three of the last six months prior

to the person's becoming ineligible for the assistance, except in the case of a person who becomes eligible for aid to families with dependent children benefits on or after the effective date of this act; and

b. would be eligible for aid to families with dependent children financial assistance, except for the person's income, resources or hours of employment.

C. 30:4D-6d Insurance carrier primary payer.

3. If a person who is eligible for continued Medicaid benefits pursuant to section 2 of this act obtains employment which provides health insurance coverage, the employee's or employer's health insurance carrier, as the case may be, shall be the primary payer and the Medicaid program established pursuant to P.L. 1968, c. 413 (C. 30:4D-1 et seq.), shall be the secondary payer.

4. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), shall adopt rules and regulations to carry out the purposes of this act.

5. This act shall take effect immediately or upon the enactment into law of Assembly Bill No. 3809 or Senate Bill No. 3127 of 1987, whichever date is later.

Approved October 8, 1987.

CHAPTER 284

AN ACT providing for the establishment of a Statewide highway traffic safety program, supplementing chapter 17B of Title 52 of the Revised Statutes and repealing P.L. 1971, c. 351.

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

C. 27:5F-18 Short title.

1. This act shall be known and may be cited as the "New Jersey Highway Traffic Safety Act of 1987."

C. 27:5F-19 Findings, determinations.

2. The Legislature hereby finds and determines that the toll of deaths and injuries resulting from highway accidents is a matter of State concern. Although the State and local governments presently are active in virtually all areas of highway safety, a formal mechan-

ism should exist for the integration and coordination of existing safety efforts. The establishment of a Statewide highway traffic safety program under the guidance and direction of the Governor will provide this needed mechanism to coordinate State and local efforts in the struggle to reduce highway deaths and injuries.

C. 27:5F-20 Definitions.

3. As used in this act:

a. "State highway traffic safety program" means all highway traffic safety programs conducted by the State and political subdivisions of the State.

b. "Local highway traffic safety program" means a highway traffic safety program established or submitted to the Governor by a political subdivision pursuant to the provisions of this act.

c. "Political subdivision" means any local political subdivision of this State, including but not limited to a municipality, a county, a township, a district, or a special district.

d. "Governor" means the Governor of the State of New Jersey.

e. "Director" shall mean the Director of the Office of Highway Traffic Safety of the State of New Jersey.

f. "Volunteer first aid, rescue and ambulance squad" means a first aid, rescue and ambulance squad which provides emergency medical services without receiving payment for those services.

g. "Nonvolunteer first aid, rescue and ambulance squad" means a first aid, rescue and ambulance squad which provides emergency medical services on a paid basis.

C. 27:5F-21 Coordination by Governor.

4. a. The Governor shall coordinate the highway traffic safety activities of State and local agencies, other public and private agencies, and interested organizations and individuals and shall be the official of this State having the ultimate responsibility of dealing with the federal government with respect to the State highway traffic safety program. In order to effectuate the purposes of this act he shall:

(1) Prepare for this State, the New Jersey Highway Traffic Safety Program which shall consist of a comprehensive plan in conformity with the laws of this State to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

(2) Promulgate rules and regulations establishing standards and

procedures relating to the content, coordination, submission, and approval of local highway traffic safety programs.

(3) Contract and do all things necessary or convenient on behalf of the State in order to insure that all departments of State Government and local political subdivisions secure the full benefits available under the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404), and any acts amendatory or supplementary thereto.

(4) Adopt training programs, guidelines and standards for members of nonvolunteer first aid, rescue and ambulance squads providing emergency medical service programs.

b. The New Jersey Highway Traffic Safety Program, and rules and regulations, training programs, guidelines, and standards shall comply with uniform standards promulgated by the United States Secretary of Transportation in accordance with the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404), and any acts amendatory or supplementary thereto.

C. 27:5F-22 Training programs.

5. The New Jersey Highway Traffic Safety Program shall, in addition to other provisions, include training programs for groups such as but not limited to police, teachers, students and public employees, which programs shall comply with the uniform standards promulgated by the United States Secretary of Transportation in accordance with the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404), and any acts amendatory or supplementary thereto.

In addition, the New Jersey Highway Traffic Safety Program shall include the training program for members of volunteer first aid, rescue and ambulance squads, adopted by the New Jersey State First Aid Council, which shall comply with the uniform standards promulgated by the United States Secretary of Transportation in accordance with the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404) and any amendments or supplements to it.

C. 27:5F-23 Qualification for federal funds.

6. A political subdivision shall qualify for receipt of federal funds upon application to the Governor, provided that:

a. The political subdivision submits to the Governor a local highway traffic safety program in accordance with and meeting the stan-

dards established and the rules and regulations promulgated pursuant to this act.

b. The political subdivision submits to the Governor any other information as may be required to carry out the purposes of this act.

C. 27:5F-24 Grants to Treasury Department.

7. The Department of the Treasury shall accept and receive any grants of money awarded to the State and its political subdivisions under the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404), and acts amendatory or supplementary thereto. All moneys so received shall be deposited by the Department of the Treasury and shall be used exclusively for establishing, administering and fulfilling highway traffic safety programs pursuant to the provisions of this act. The money shall be paid from the fund or funds upon audit and warrant of the Director, Division of Budget and Accounting, on vouchers of or certification by the Governor.

C. 27:5F-25 Portion to political subdivisions.

8. At least 40% of the federal funds so received, or such lesser amount as may be authorized pursuant to federal law, shall be expended by or for the benefit of political subdivisions.

C. 27:5F-26 Emergency medical service programs.

9. The Governor may also accept applications from political subdivisions made on behalf of hospitals, volunteer and nonvolunteer first aid, rescue and ambulance squads, or other local entities serving a public purpose for grants of money to implement emergency medical service programs. A political subdivision shall submit all such applications to the Governor.

C. 27:5F-27 Certification.

10. The officers of each volunteer and nonvolunteer first aid, rescue and ambulance squad providing emergency medical service programs shall be responsible for the training of its members and shall notify the governing body of the political subdivision in which the squad is located, or the person designated for this purpose by the governing body, that particular applicants for membership (qualified under sections 5 and 4 of this act respectively), ambulances, and ambulance equipment meet the standards required by this act. Upon receipt of such notification the governing body or person designated shall certify the applicant, ambulances, and ambulance equipment as being qualified for emergency medical service programs, and shall issue a certificate to that effect at no charge. Each member and piece of equipment of a volunteer and nonvolunteer first aid, rescue and ambulance squad shall comply with

the requirements for certification annually. Any person who is a member of a volunteer and nonvolunteer first aid, rescue and ambulance squad providing emergency medical service programs on the effective date of this act shall, if application is made to the appropriate municipality within 90 days of the effective date, be certified by the governing body or designated person as being qualified for emergency medical service programs for a period of two years. At the end of that period, the person shall comply with the requirements for certification annually.

C. 27:5F-28 Allocation of federal funds.

11. The federal funds apportioned and allocated to the State pursuant to the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404), or any other federal law, rule or regulation shall be utilized for such highway traffic safety purposes as the Governor shall deem appropriate.

In the event that federal funds are apportioned and allocated to the State pursuant to the "U.S. Highway Safety Act of 1966," Pub.L. 89-564 (23 U.S.C. §§401-404), on the basis of existing State and local highway safety traffic programs and activities, the Governor is authorized, in his discretion and subject to the approval of the appropriate federal agency with respect to the allocation and payment of the local share of such federal funds, to do whatever must be done to avail the State of the federal funds.

C. 27:5F-29 Office of Highway Traffic Safety.

12. a. There is hereby created an Office of Highway Traffic Safety in the Department of Law and Public Safety.

b. The office shall be under the immediate supervision of a director who shall be qualified to direct the work of the office. The director shall be appointed by, and serve at the pleasure of, the Governor.

c. The director shall:

(1) Administer the work of the office under the direction and supervision of the Governor and the Attorney General;

(2) Perform such functions, in addition to the work of the office, as the Governor may prescribe;

(3) Organize and reorganize the office;

(4) Assign and reassign personnel to employment within the office;

(5) Perform or cause to be performed the work of the office in

the manner and pursuant to a program as he may deem necessary and appropriate;

(6) Employ as necessary the services of several departments and agencies, in a manner and to an extent as may be agreed upon by the chief executive officer of a department or agency and the Governor;

(7) Assist the localities in the development and formulation of local highway traffic safety programs;

(8) Receive and process applications from local and State agencies for highway traffic safety project grants;

(9) Cause to be made a periodic review of local highway traffic safety programs, including training programs of first aid, rescue and ambulance squads, to insure they comply with the standards, guidelines, rules and regulations provided for by this act.

C. 27:5F-30 Ban on first aid squad restrictions.

13. This act shall not be construed to grant to the Governor or any other State or local official any power to promulgate regulations which may restrict a volunteer and nonvolunteer first aid, rescue or ambulance squad of the State in the proper performance of its duties. The provisions of this section may not be waived notwithstanding any other language of this act.

C. 27:5F-31 Advisory council.

14. The Governor shall establish a Highway Traffic Safety Policy Advisory Council. The council shall consist of the following 21 members appointed by the Governor: The Director of the Office of Highway Traffic Safety, who shall serve as chairperson of the council; one representative of the Department of Education; one representative of the Department of Health; one representative of the Department of Transportation; one representative each of the Division of Motor Vehicles, the Division of State Police, and the Police Training Commission in the Department of Law and Public Safety; one representative of the Administrative Office of the Courts; two representatives of county or municipal law enforcement agencies; two representatives of county or local governments; two members of the Governor's Advisory Council on Emergency Medical Services; one representative of the New Jersey State First Aid Council; three private sector corporate representatives; and three members of the general public.

The Highway Traffic Safety Policy Advisory Council shall make recommendations to the Governor to assist him in preparing the New

Jersey Highway Traffic Safety Program and the rules and regulations and standards, guidelines and other programs provided for by this act.

C. 27:5F-32 Governor's representative.

15. The Director of the Office of Highway Traffic Safety is hereby appointed as the Governor's representative to the National Highway Traffic Safety Administration of the United States Department of Transportation.

C. 27:5F-33 Report to Legislature.

16. On or before December 31st each year, the Governor shall submit a report to the Legislature. The report shall include a detailed presentation of the New Jersey Highway Traffic Safety Program, a statement concerning the progress made implementing the program, and recommendations concerning possible legislative action deemed necessary or desirable to implement the program.

C. 27:5F-34 Entities abolished.

17. Executive Orders No. 31 of 1951 and 39 of 1968 are hereby superseded. The "State Coordinating Council on Traffic and Safety" established pursuant to Executive Order No. 31 of 1951 and the "Interdepartmental Highway Safety Program Committee" established pursuant to Executive Order No. 39 of 1968 are hereby abolished and the terms of office of the members thereof are hereby terminated. The functions, powers and duties of the Office of Highway Safety Liaison in the Department of Transportation established pursuant to Executive Order No. 39 of 1968 are hereby transferred to the Office of Highway Traffic Safety in the Department of Law and Public Safety established hereunder.

C. 27:5F-35 Transfer of office.

18. The Office of Highway Safety in the Division of Motor Vehicles in the Department of Law and Public Safety, together with its powers, functions, and duties, is transferred to the Office of Highway Traffic Safety in the Department of Law and Public Safety. All references in any law, order, rule, regulation, contract, document, judicial or administrative, or otherwise, to the Office of Highway Safety in the Division of Motor Vehicles in the Department of Law and Public Safety or the manager thereof, shall mean the Office of Highway Traffic Safety in the Department of Law and Public Safety or the director thereof. All transfers shall be made pursuant to the "State Agency Transfer Act," P.L. 1971, c. 375 (C. 52:14D-1 et seq.).

Repealer.

19. The "New Jersey Highway Safety Act of 1971," P.L. 1971, c. 351 (C. 27:5F-1 et seq.) is repealed.

20. This act shall take effect immediately.

Approved October 14, 1987.

CHAPTER 285

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 election for the authorization or issuance of bonds of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the proposal was not in the form required pursuant to N.J.S. 18A:24-22, provided however, that no action, suit or other 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 14, 1987.

CHAPTER 286

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 election for the authorization or issuance of bonds

of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that a notice of the special school district election was not published in accordance with the provisions of N.J.S. 18A:14-19, provided that notices of such election were posted prior to the election as required by law; provided however, that no action, suit or other 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 14, 1987.

CHAPTER 287

AN ACT to amend and supplement the "Senior Citizens and Disabled Protected Tenancy Act," approved July 27, 1981 (P.L. 1981, c. 226).

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

1. Section 6 of P.L. 1981, c. 226 (C. 2A:18-61.27) is amended to read as follows:

C. 2A:18-61.27 Notice to tenants.

6. The owner of any building or structure who, after the effective date of this amendatory and supplementary act, seeks to convert any premises, shall, prior to his filing of the application for registration of conversion with the Department of Community Affairs, notify the administrative agency or officer responsible for administering this amendatory and supplementary act of his intention to so file. The owner shall supply the agency or officer with a list of every tenant residing in the premises, with stamped envelopes addressed to each tenant and with sufficient copies of the notice to tenants and application form for protected tenancy status. Within 10 days thereafter, the administrative agency or officer shall notify each residential tenant in writing of the owner's intention and of the applicability of the provisions of this amendatory and supplementary act and shall provide him with a written application form. The agency's or officer's notice shall be substantially in the following form:

"NOTICE

THE OWNER OF YOUR APARTMENT HAS NOTIFIED
 OF HIS INTENTION

(insert name of municipality)

TO CONVERT TO A CONDOMINIUM OR COOPERATIVE. THE
 LEGISLATURE HAS PROVIDED THAT, IF YOU ARE A SENIOR
 CITIZEN, 62 YEARS OF AGE OR OLDER, OR DISABLED, YOU
 MAY BE ENTITLED TO A PROTECTED TENANCY PERIOD.
 PROTECTED TENANCY MEANS THAT YOU CANNOT BE
 EVICTED BECAUSE OF THE CONVERSION. YOU MAY BE
 ELIGIBLE:

- (1) IF YOU ARE 62, OR WILL SOON BE 62, OR IF YOU ARE
 DISABLED; AND
- (2) IF YOU HAVE LIVED IN YOUR APARTMENT FOR TWO
 YEARS; AND
- (3) IF YOUR HOUSEHOLD INCOME IS LESS THAN

 (insert current income figure for county as established by Section 7c
 of this amendatory and supplementary act)

IF YOU WISH THIS PROTECTION, SEND IN THE APPLI-
 CATION FORM BY..... TO THE

(insert date 60 days after munic-
 ipality's mailing)

..... FOR FURTHER INFOR-
 (insert name and address of administrative agency)

MATION CALL..... OR.....

(insert phone num-
 ber of administra-
 tive agency)

(insert phone num-
 ber of Department
 of Community Af-
 fairs)

IF YOU DO NOT APPLY YOU CAN BE EVICTED BY YOUR
 LANDLORD UPON PROPER NOTICE."

The Department of Community Affairs shall not accept any appli-
 cation for registration of conversion for any building or structure
 unless included in the application is proof that the agency or officer
 notified the tenants prior to the application for registration. The proof
 shall be by affidavit or in such other form as the department shall
 require.

2. Section 7 of P.L. 1981, c. 226 (C. 2A:18-61.28) is amended to read as follows:

C. 2A:18-61.28 Eligibility for protected tenancy status.

7. Within 30 days after receipt of an application for protected tenancy status by a tenant, the administrative agency or officer shall make a determination of eligibility. It shall send written notice of eligibility to each senior citizen tenant or disabled tenant who:

a. Applied therefor on or before the date of registration of conversion by the Department of Community Affairs; and

b. Qualifies as an eligible senior citizen tenant or disabled tenant pursuant to this amendatory and supplementary act; and

c. Has an annual household income that does not exceed an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or \$50,000.00, whichever is greater; and

d. Has occupied the premises as his principal residence for the past two years.

The department shall adjust the county per capita personal income to be used in subsection c. of this section if there is a difference of one or more years between (1) the year in which the last reported county per capita personal income was based and (2) the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

The administrative agency or officer shall likewise send a notice of denial with reasons to any tenant whom it determines to be ineligible. The owner shall be notified of those tenants who are determined to be eligible and ineligible.

The administrative agency or officer may require that the application include such documents and information as may be necessary to establish that the tenant is eligible for a protected tenancy status under the provisions of this amendatory and supplementary act and shall require such application to be submitted under oath. The Department of Community Affairs may by regulation adopt forms for application for protected tenancy status and notification of eligibility

or ineligibility or adopt such other regulations for the procedure of determining eligibility as it determines are necessary.

3. Section 10 of P.L. 1981, c. 226 (C. 2A:18-61.31) is amended to read as follows:

C. 2A:18-61.31 Rent increase restrictions.

10. In a municipality which does not have a rent control ordinance in effect, no evidence of increased costs which are solely the result of the conversion, including but not limited to any increase in financing or carrying costs, and which do not add services or amenities not previously provided shall be used as a basis to establish the reasonableness of a rent increase under section 2f. of P.L. 1974, c. 49 (C. 2A:18-61.1).

In a municipality which has a rent control ordinance in effect, a rent increase for a tenant with a protected tenancy status, or for any tenant to whom notice of termination pursuant to section 3g. of P.L. 1974, c. 49 (C. 2A:18-61.2) has been given, shall not exceed the increase authorized by the ordinance for rent controlled units. Increased costs which are solely the result of a conversion, including but not limited to any increase in financing or carrying costs, and which do not add services or amenities not previously provided shall not be passed directly through to these tenants as surcharges or pass-throughs on the rent, shall not be used as the basis for a rent increase, and shall not be used as a basis for an increase in a fair return or hardship hearing before a municipal rent board or on any appeal from such determination.

4. Section 11 of P.L. 1981, c. 226 (C. 2A:18-61.32) is amended to read as follows:

C. 2A:18-61.32 Termination of status.

11. The administrative agency or officer shall terminate the protected tenancy status immediately upon finding that:

a. The dwelling unit is no longer the principal residence of the senior citizen tenant or disabled tenant; or

b. The tenant's annual household income, or the average of the tenant's annual household income for the current year, computed on an annual basis, and the tenant's annual household income for the two preceding years, whichever is less, exceeds an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or \$50,000.00, whichever is greater.

The department shall adjust the county per capita personal income to be used in subsection b. of this section if there is a difference of one or more years between (1) the year in which the last reported county per capita personal income was based and (2) the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

Upon the termination of the protected tenancy status by the administrative agency or officer, the senior citizen tenant or disabled tenant may be removed from the dwelling unit pursuant to P.L. 1974, c. 49 (C. 2A:18-61.1 et seq.), except that all notice and other times set forth therein shall be calculated and extend from the date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the senior citizen tenant or disabled tenant during the protected tenancy period, whichever shall be later.

5. This act shall take effect immediately.

Approved October 20, 1987.

CHAPTER 288

AN ACT to finance certain costs of local sewerage projects, to reduce certain appropriations made from the Water Conservation Fund and reappropriate these moneys for new purposes, and to appropriate moneys from the Natural Resources Fund.

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

1. The \$4,747,790.00 appropriated pursuant to section 2 of P.L. 1970, c. 26 is reduced by \$80,161.00 to \$4,667,629.00, by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
33	Fair Lawn borough	\$18,072
34	Warren township	6,335
38	Hamilton township, Mercer county	<u>55,754</u>
		\$80,161

2. The \$5,140,697.00 appropriated pursuant to section 3 of P.L. 1970, c. 26 is reduced by \$524,854.00 to \$4,615,843.00, by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
7	Pompton Lakes Municipal Utilities Authority	\$ 1,159
8	Roxbury township	14,826
11	Madison—Chatham Joint Meeting	29,122
20	Northeast Monmouth County Regional Sewerage Authority	392,266
28	Montville Township Municipal Utilities Authority	69,036
30	Bergen County Utilities Authority	3,948
66	Bergen County Utilities Authority	<u>14,497</u>
		\$524,854

3. The \$44,589,306.00 appropriated pursuant to section 4 of P.L. 1970, c. 26 is reduced by \$9,765,370.00 to \$34,823,936.00, by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
13	Summit city	\$ 3,076
14	Raritan Township Municipal Utilities Authority	136,530

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State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
19	Bridgewater Township Sewerage Authority	\$ 385,836
23	Trunk Sewer Board Woodcliff Lakes	125,000
24	Demarest borough	225,000
25	Millville city	343,880
44	Bergen County Utilities Authority	93,439
56	Caldwell borough	55,735
58	Sussex County Services Center	68,750
60	Passaic township	15,500
62	Union City	100,000
63	Weehawken—Union City	225,000
65	Madison township	287,500
67	Bergen County Utilities Authority	248,494
68	Lower Township Municipal Utilities Authority	83,372
73	Linden—Roselle Sewerage Authority	2,917,500
74	Sea Bright borough	9,492
76	New Shrewsbury borough	47,500
77	Rumson borough	437,913
78	Bergen County Utilities Authority	3,260,853
79	Bergen County Utilities Authority	195,000
88	Mount Laurel Township Municipal Utilities Authority	<u>500,000</u>
		\$9,765,370

4. The \$446,919.00 appropriated pursuant to section 3 of P.L. 1970, c. 271 is reduced by \$13,045.00 to \$433,874.00 by the cancellation of the following portion of a grant:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
83	Montvale borough	\$13,045
		<u>\$13,045</u>

5. The \$17,147,358.00 appropriated pursuant to section 2 of P.L. 1971, c. 178 is reduced by \$6,896,169.00 to \$10,251,189.00 by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
50	Landis Sewerage Authority	\$ 347,000
89	Monroe Municipal Utilities Authority	143,750
99	Scotch Plains township	—0—
100	Bridgewater Township Sewerage Authority	44,750
102	Red Bank borough	11,780
103	Lumberton Municipal Utilities Authority	108,000
104	Monmouth County Bayshore Outfall Authority	914,783
105	Sayreville borough— South Amboy city	930,050
106	Northfield city	194,921
107	Eatontown Sewerage Authority	19,791
108	Denville township	204,844
112	Parsippany-Troy Hills township	3,750,000
120	Somerville borough	76,500
800	North Plainfield—Watchung Interceptor	150,000
		<u>\$6,896,169</u>

6. The \$24,249,250.00 appropriated pursuant to section 2 of P.L. 1973, c. 104 is reduced by \$751,560.00 to \$23,497,690.00, by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
83	Montvale borough	\$120,000
127	Second River Joint Meeting	5,810
140	Englishtown borough	475,750
801	Hanover Sewerage Authority	<u>150,000</u>
		\$751,560

7. The \$1,273,930.00 appropriated pursuant to section 9 of P.L. 1973, c. 104 is reduced by \$226,596.00 to \$1,047,334.00 by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
130	Stony Brook Regional Sewerage Authority	\$ 33,096
133	Pequannock, Lincoln Park & Fairfield Sewerage Authority	<u>193,500</u>
		\$226,596

8. The \$3,265,545.00 appropriated pursuant to section 1 of P.L. 1974, c. 139 is reduced by \$18,767.00 to \$3,246,778.00, by the cancellation of the following portions of grants:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
101	Passaic Valley Water Commission	\$ 1,564
153	Bayshore Regional Sewerage Authority	<u>17,203</u>
		\$18,767

9. The \$20,294,116.00 appropriated pursuant to section 1 of P.L. 1975, c. 158 is reduced by \$9,372.00 to \$20,284,744.00 by the cancellation of the following portion of a grant:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
218	Long Beach Sewerage Authority	<u>\$9,372</u> \$9,372

10. The \$7,921,766.00 appropriated pursuant to section 5 of P.L. 1977, c. 450 is reduced by \$6,719.00 to \$7,915,047.00 by the cancellation of the following portion of a grant:

State I.D. Project No.	Municipality or Authority	Amount of State Grant Cancelled
365-02	Wayne township	<u>\$6,719</u> \$6,719

11. There is appropriated to the Department of Environmental Protection from the Water Conservation Fund, created pursuant to section 13 of the "Water Conservation Bond Act" (P.L. 1969, c. 127), the sum of \$18,292,613.00 for the purpose of providing grants to the following authorities and municipalities in the amount of 8% of approved local sewerage project costs which qualify for federal assistance, pursuant to the provisions of the "Sewerage Facilities Aid Program," established pursuant to sections 11 through 20, inclusive, of P.L. 1979, c. 321 (C. 58:25-1 through 58:25-10):

Federal I.D. Project No.	Municipality or Authority	Amount of State Grant
389-04	Rockaway Valley Regional Sewerage Authority	\$ 1,685,034
365-04	Wayne township	499,553
808-02	Bass River (Step IV)	70,705
732-02	Cape May County Municipal Utilities Authority (Wildwood)	5,130,577

Federal I.D. Project No.	Municipality or Authority	Amount of State Grant
661-04	Cape May County Municipal Utilities Authority (7 Mile)	\$ 2,208,373
708-06	Camden County Municipal Utilities Authority	4,809,669
486-06	North Haledon borough	345,937
416-08	Mercer County Improvement Authority	2,525,100
416-08	Mercer County Improvement Authority	—0—
416-10	Trenton city	212,377
390-04	Wanaque Valley Regional Sewerage Authority	663,795
519-03	Atlantic Highlands— Highlands Regional Sewerage Authority	141,493
		<u>\$18,292,613</u>

12. There is appropriated to the Department of Environmental Protection from the Natural Resources Fund, created pursuant to section 14 of the "Natural Resources Bond Act of 1980" (P.L. 1980, c. 70), the sum of \$1,781,480.00, for the purpose of providing grants to the following authorities and municipalities in the amount of 8% of approved local sewerage project costs which qualify for federal assistance, pursuant to the provisions of the "Sewerage Facilities Aid Program," established pursuant to sections 11 through 20, inclusive, of P.L. 1979, c. 321 (C. 58:25-1 through 58:25-10):

Federal I.D. Project No.	Municipality or Authority	Amount of State Grant
519-03	Atlantic Highlands— Highlands Regional Sewerage Authority	\$ 248,483
519-04	Middletown Township Sewerage Authority	261,224
622-03	Wall township	588,500
486-07	North Haledon borough	204,515
482-03	Wyckoff township	17,108
372-07	Ocean County Utilities Authority	355,686

Federal I.D. Project No.	Municipality or Authority	Amount of State Grant
406-06	Sussex County Municipal Utilities Authority	\$ 35,389
796-02	Western Monmouth Utilities Authority (Marlin Estates)	70,575
		<u>\$1,781,480</u>

13. There is appropriated to the Department of Environmental Protection from the Natural Resources Fund, created pursuant to section 14 of the "Natural Resources Bond Act of 1980" (P.L. 1980, c. 70), the sum of \$947,711.00, 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," established pursuant to sections 11 through 20, inclusive, of P.L. 1979, c. 321 (C. 58:25-1 through 58:25-10):

Federal I.D. Project No.	Municipality or Authority	Amount of State Grant
393-03	Wayne township	\$721,969
515-02	Hamburg borough	36,015
684-03	Northeast Monmouth County Regional Sewerage Authority	59,779
799-01	Gloucester County Utilities Authority	17,780
376-01	Morristown town	112,168
		<u>\$947,711</u>

14. This act shall take effect immediately.

Approved October 26, 1987.

CHAPTER 289

AN ACT concerning 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:

1. N.J.S. 18A:8-18 is amended to read as follows:

Board of new district.

18A:8-18. The members of the board of education of the original district shall continue in office as members of such district until the creation of the new district and the members of said board who reside in the new district shall also be members of the first board of education of the new district and those who do not reside therein shall also be members of the first board of education of the remaining district. They shall continue to serve as members of the board of education of the new and remaining districts respectively until the expiration of the respective terms for which they were elected as members of the board of education of the original district. Such number of additional members of the first board of education of the new district and of the remaining district as shall be required to complete full membership thereof, shall be appointed by the county superintendent and their successors shall be elected at school elections of the districts, which shall be held at the same time as that on which the annual election of the original district would have been held in the next school year. The elected members of said boards shall take office at the organization meeting succeeding their election and the appointed members shall continue in office until said date.

2. N.J.S. 18A:10-3 is amended to read as follows:

Annual organization.

18A:10-3. Each board of education shall organize annually at a regular meeting held not later than at 8 p.m. at which time new members shall take office:

- a. In type I districts on May 16, or on the following day if that day be Sunday;
- b. In all type II districts on any day of the first or second week following the annual school election.

If the organization meeting cannot take place on that day by reason of lack of a quorum or for any other reason, said meeting shall be held within three days thereafter.

3. N.J.S. 18A:12-13 is amended to read as follows:

Membership increase.

18A:12-13. If at the election the question of increasing the membership of the board shall be adopted, the membership of the board shall be increased accordingly as of the organization meeting next following the next annual school election and the additional members shall be elected at such annual school election, for terms as follows:

- a. If the increase is from three to five, two for three years and one for two years;
- b. If the increase is from three to seven, two for three years, one for two years and one for one year;
- c. If the increase is from five to seven, one for three years and one for a term of either one or two years, whichever is necessary to cause the terms of two members to expire at each of the next two annual school elections;
- d. If the increase is from any other number to nine, for such terms not over three years, as will as soon as possible constitute a board of nine, with three-year terms expiring, three each year.

Each year thereafter successors to the members whose terms expire shall be elected for three years.

4. N.J.S. 18A:12-19 is amended to read as follows:

5-year terms.

18A:12-19. If at said election the question shall be adopted, the members of the board of education then in office shall continue in office until the expiration of their respective terms and thereafter until the organization meeting following the next annual school election and their respective successors shall be elected by the legal voters of the district at such and each following annual school election to be held in the district, for terms of five years.

5. N.J.S. 18A:13-10 is amended to read as follows:

Regional boards.

18A:13-10. The board of education of each regional district shall provide for the holding of an annual school election for the regional district on the first Tuesday in April.

At such election there shall be elected for terms of three years, beginning on any day of the first or second week following such election, the members of the regional boards of education to succeed those members of the board whose terms shall expire in that year,

except as is in this chapter provided for the election of the first elected members of the board.

6. N.J.S. 18A:13-12 is amended to read as follows:

Election of officers.

18A:13-12. The board shall hold a regular meeting forthwith after its first appointment, and annually thereafter on any day of the first or second week following the annual school election, at which it shall organize by the election, from among its members, of a president and vice president, who shall serve until the organization meeting next succeeding the election of their respective successors as members of the board. If any board shall fail to organize within said two weeks, the county superintendent of the county, or the county superintendents of the counties, in which the constituent districts are situate, shall appoint, from among the members of the board, a president and vice president to serve until the organization meeting next succeeding the next election.

7. Section 2 of P.L. 1970, c. 305 (C. 18A:13-9.2) is amended to read as follows:

C. 18A:13-9.2 Special election.

2. In the event that such a resolution is adopted and approved, the terms of the present members of the regional board whose terms would terminate in the year of said election shall be continued until the organization meeting which shall be held during the first or second week after said special election at which time the board shall organize pursuant to section 18A:13-12 of the New Jersey Statutes and the terms of the members elected in said election shall commence. The powers of the present board shall continue unaltered until said organization meeting after said special election. Each such new member shall serve for the unexpired term only.

8. This act shall take effect immediately.

Approved October 29, 1987.

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development

20-2800 Economic Development \$100,000

Grant:

Interracial Council for Business

Opportunity of New Jersey (\$100,000)

2. This act shall take effect immediately.

Approved October 29, 1987.

CHAPTER 291

AN ACT authorizing the appointment of parking enforcement officers, amending and supplementing P.L.1948, c. 198 (C. 40:11A-1 et seq.).

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

1. Section 22 of P.L. 1948, c. 198 (C. 40:11A-22) is amended to read as follows:

C. 40:11A-22 Municipal parking authorities.

22. (1) The municipality for which a parking authority shall have been created shall have the power from time to time, by or pursuant to ordinance duly adopted or by instruments or other action authorized by such an ordinance and for such period and upon such terms, with or without consideration, as may be provided in such ordinance and accepted by the authority:

(a) To pledge to the authority, and covenant and agree with the authority to pay to or on the order of the authority, all or any part of any funds theretofore or thereafter received by the municipality

for or with respect to the parking or storage of motor vehicles, in streets or otherwise, including funds collected in parking meters located in or along streets or otherwise;

(b) To sell, lease, lend, donate, grant or convey to the authority, or permit the authority to use, maintain or operate as part of its projects or to manage, any parking project or undertaking constructed or owned by the municipality, or any meters, equipment or other real or personal property owned by the municipality, which may be necessary or useful and convenient for the purposes of the authority and accepted by the authority;

(c) To appropriate money for all or any part of the cost of acquisition or construction of any parking project of the authority and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the local bond law, to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing such project and appropriation, and to pay the proceeds of such bonds to the authority;

(d) To covenant and agree with the authority to pay to or on the order of the authority annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding such sums of money as may be stated in such ordinance;

(e) To unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority; and

(f) Upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys (if any) necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance.

(2) Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the municipality and on its behalf by such officer thereof as may be designated in the ordinance authorizing such guaranty, and such municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of the authority may be made, and any ordinance authorizing such guaranty may be adopted, notwithstanding any statutory or other debt limitations, including

particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds guaranteed pursuant to said ordinance shall be included in the gross debt of such municipality for the purpose of determining the indebtedness of such municipality under or pursuant to the local bond law. The principal amount of bonds guaranteed pursuant to said ordinance and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the local bond law (a) from and after the date of adoption of the ordinance authorizing such guaranty and until the end of the fifth fiscal year beginning next thereafter, and (b) in any annual debt statement filed pursuant to the local bond law as of the end of said fifth fiscal year or any subsequent fiscal year if the municipality shall not have been required to make any payment in such fiscal year on account of the principal of or interest on any of the bonds guaranteed pursuant to said ordinance.

(3) Any contract, covenant or agreement with an authority or pledge to an authority made by a municipality pursuant to this section regarding funds received by the municipality for or with respect to the parking or storage of motor vehicles in streets or otherwise as referred to in paragraph (1)(a) hereof, whether or not including funds collected in parking meters in or along streets or otherwise, may include or be supplemented with provisions, on such terms as may be authorized on behalf of the municipality and accepted by the authority, for or with respect to:

(a) The acquisition, installation, relocation, maintenance, repair, replacement, operation and disposition by the authority of all or any such parking meters in accordance with the applicable law, ordinances and regulations as to the parking of vehicles in the municipality;

(b) The collection by the authority of all or any funds generated in all or any such parking meters, and the accounting for, and deposit, custody, safeguarding, allocation, use, application and disposition of, any such funds;

(c) The enforcement by the authority, on behalf of the municipality or otherwise, of all or any of the applicable law, ordinances and regulations as to the parking of vehicles in the municipality, whether upon streets or on lands or other facilities owned or maintained by the municipality or the authority or elsewhere;

(d) In order to implement such enforcement of applicable law,

ordinances and regulations as aforesaid, the appointment by or on behalf of the municipality upon designation as required by the authority of persons to serve, under the supervision and direction of the authority, as parking enforcement officers of the municipality with full power and authority, in such manner and to such extent as may be approved on behalf of such municipality, (1) to issue summonses for violations of any provision of said law, ordinances or regulations, (2) to serve and execute all process with respect to any such violation issuing out of the police court of the municipality by whatsoever name the same shall be known, and (3) to cause any vehicle parked, stored or abandoned in violation of any provision of said law, ordinances or regulations to be towed away from the scene of such violation and collect from the owner of such vehicle the costs of the towing and subsequent storage of said vehicle before surrendering said vehicle to such owner; and

(e) The allocation and financing of the costs and expense of any of the foregoing.

(4) Every municipality which shall make any contract, covenant or agreement with an authority or pledge to an authority pursuant to this section is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform the same and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality. Every authority is hereby empowered to accept, and make and enter into, any of the contracts, covenants, agreements or contractual provisions referred to in this section and is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform the same. Any such contract, covenant, agreement, or pledge, and any instrument making or evidencing the same, may be pledged or assigned by the authority to secure its bonds and thereafter may not be modified except as provided by the terms of such instrument or by the terms of such pledge or assignment.

C. 40:11A-22.1 Parking enforcement officer.

2. (New section) As used in this act, a parking enforcement officer means a person appointed pursuant to this act to exercise the power and authority described in paragraph (d) of subsection (3) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)). Parking enforcement officers are not special law enforcement officers within the meaning of P.L. 1985, c. 439 (C. 40A:14-146.8 et al.) and are not members of the police force of the municipality for which the parking authority

shall have been created. Parking enforcement officers are not eligible for membership in the Police and Firemen's Retirement System established pursuant to P.L. 1944, c. 255 (C. 43:16A-1 et seq.).

C. 40:11A-22.2 Qualifications.

3. (New section) No person may be appointed as a parking enforcement officer unless the person:

- a. is a resident of this State during the term of appointment;
- b. is able to read, write and speak the English language well and intelligently;
- c. is of sound mind and in good health;
- d. is of good moral character;
- e. has not been convicted of any offense involving dishonesty or which would make him unfit to perform the duties of his office.

C. 40:11A-22.3 Fingerprinting.

4. (New section) Every applicant for the position of parking enforcement officer appointed pursuant to this act shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and Federal Bureau of Investigation.

C. 40:11A-22.4 Eligibility determination.

5. (New section) Before any parking 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 municipality shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the appointing authority.

C. 40:11A-22.5 Firearms banned.

6. (New section) No parking enforcement officer may carry a firearm while engaged in the actual performance of the officer's official duties. A parking enforcement officer shall be deemed to be on duty only while the officer is performing the public safety functions enumerated in paragraph (d) of subsection (3) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)) on behalf of a parking authority and when that officer is receiving compensation, if any, from the parking authority at the rates or stipends as shall be established by ordinance.

C. 40:11A-22.6 Training course.

7. (New section) No person appointed after the effective date of this act may commence his duties as a parking enforcement officer unless that person has successfully completed a training course conducted or approved by the municipality or parking authority.

C. 40:11A-22.7 Waiver.

8. (New section) The training requirements set forth in section 7 of this act may be waived by the appointing authority for any person eligible to be appointed as a parking enforcement officer under this act who has substantially equivalent training and background, as determined by the chief of police or, in his absence, other chief law enforcement officer of the municipality.

C. 40:11A-22.8 Uniform.

9. (New section) Every parking 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 parking authority with which the officer is employed. The uniform shall also include an insignia issued by the parking authority which clearly indicates the officer's status as a parking enforcement officer.

C. 40:11A-22.9 Insignia.

10. (New section) Within six months following the effective date of this act, parking authorities shall issue permanent insignia. The appointing authority may issue temporary insignia for use prior to the issuance of permanent insignia.

C. 40:11A-22.10 Fees.

11. (New section) The parking authority may charge a reasonable fee for uniforms supplied pursuant to this act; however, the appointing authority shall not charge a fee for the costs of training or issuing a certificate of appointment.

C. 40:11A-22.11 Redesignation.

12. (New section) All persons currently employed under the supervision and direction of a parking authority as special law enforcement officers and who are exercising the power and authority described in paragraph (d) of subsection (3) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)) on the effective date of this act are hereby designated parking enforcement officers.

13. This act shall take effect immediately.

Approved October 29, 1987.

CHAPTER 292

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, 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
43 Environmental Quality—State Aid

08-4855 Water Enforcement \$300,000

State Aid:

Grant to Beachwood borough (\$300,000)

2. This act shall take effect immediately.

Approved October 29, 1987.

CHAPTER 293

AN ACT providing for the licensure of insurance producers and others, supplementing Title 17 of the Revised Statutes, and repealing parts of statutory law.

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

C. 17:22A-1 **Short title.**

1. This act shall be known and may be cited as the "New Jersey Insurance Producer Licensing Act."

C. 17:22A-2 **Definitions.**

2. As used in this act:

a. "Applicant" means a person who has applied for, or who intends to apply for, a license in accordance with this act.

- b. "Commissioner" means the Commissioner of Insurance.
- c. "Days" means calendar days.
- d. "Department" means the Department of Insurance.
- e. "Insurance," "insurance policy" or "insurance contract" includes contracts or policies of life insurance, health insurance, annuities, indemnity, property and casualty, fidelity, surety, guaranty and title insurance.
- f. "Insurance agent" means a person authorized, in writing, by any insurance company to act as its agent to solicit, negotiate or effect insurance contracts on its behalf or to collect insurance premiums and who may be authorized to countersign insurance policies on its behalf.
- g. "Insurance broker" means a person who, for a commission, brokerage fee, or other consideration, acts or aids in any manner concerning negotiation, solicitation or effectuation of insurance contracts as the representative of an insured or prospective insured; or a person who places insurance in an insurance company that he does not represent as an agent.
- h. "Insurance consultant" means a person who, for a fee, commission or other consideration, acts or holds himself out to the public or any licensee as offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any insurance policy or contract that is or could be issued in this State, but shall not include bank trust officers, attorneys-at-law and certified public accountants who negotiate contracts on behalf of others or provide general financial counsel if no commission or brokerage fee is paid for those services.
- i. "Insurance company" includes any company that underwrites or issues an insurance policy or contract including fraternal benefit societies as defined in P.L. 1959, c. 167 (C. 17:44A-1 et seq.) and risk retention groups and purchasing groups as defined in 15 U.S.C. §3901.
- j. "Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant.
- k. "License" means any license issued pursuant to the provisions of this act or any act which is superseded by this act.
- l. "Licensee" means any person holding an insurance producer license issued pursuant to this act.

m. "Limited insurance representative" means a person who is authorized to solicit, negotiate or effect contracts for a particular line of insurance as an agent for an insurance company authorized to write that line in this State which by the nature of the line of business and the manner by which it is marketed to the public does not require the professional competency demanded for an insurance producer license.

n. "Organization" means any corporation, partnership or other legal entity.

o. "Person" means any individual, corporation, partnership or other legal entity.

p. "State, other than this State," includes any other state, the District of Columbia, the Commonwealth of Puerto Rico, any territory of the United States and the Provinces of Canada.

C. 17:22A-3 Licenses required.

3. No person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer without first obtaining a license from the commissioner granting authority for the kind of insurance transacted. No insurance company or licensee shall pay any commission, brokerage fee, compensation or other consideration to any unlicensed person for services rendered in this State as an insurance producer except for services rendered while licensed. Engaging in a single act or transaction of the business of an insurance producer, or holding oneself out to the public or a licensee as being so engaged, shall be sufficient proof of engaging in the business of an insurance producer. This section shall not apply to the clerical duties of office employees nor the managerial or supervisory duties of general agents or managers who do not negotiate, solicit or effect insurance contracts.

C. 17:22A-4 Resident insurance producer license.

4. The commissioner may issue a resident insurance producer license to any individual who meets all of the following qualifications. The individual shall:

- a. Be at least 18 years of age;
- b. Have completed and signed an application in a form prescribed by the commissioner;
- c. Have completed a course of education as the commissioner

may provide by rule or regulation, at an institution or school approved by the commissioner for such instruction, within two years preceding the date of application. The commissioner may waive the educational requirement of this subsection if the applicant:

(1) Holds a professional designation approved by the commissioner in the kind of insurance for which the applicant seeks authority;

(2) Holds a valid insurance producer license in a state, other than this State, recognized by the commissioner as having an equivalent education requirement and the commissioner has entered into a written agreement of reciprocity with that state;

(3) Held a valid insurance license in this State prior to entering military service; served in the Armed Forces of the United States in any war; was not dishonorably discharged; and has applied for a license within one year of the date of discharge; or

(4) Has served in the Armed Forces of the United States in any war; has been honorably discharged; was wounded or disabled in the line of duty; and has completed a special course of education for a license approved by the commissioner;

d. Have passed an examination approved by the commissioner to test the knowledge and proficiency of applicants in the kind of insurance for which the applicant seeks authority, within one year preceding the date of application. The commissioner may conduct the examination or may contract with an independent testing service to conduct the examination if the contract conforms with applicable rules or regulations promulgated by the commissioner and contains those provisions that the commissioner deems necessary to hold the testing service accountable to him.

The commissioner may waive the examination requirement if the applicant holds a valid insurance producer license in a state, other than this State, recognized by the commissioner as having an equivalent examination requirement and the commissioner has entered into a written agreement of reciprocity with that state;

e. Be a resident of this State or will engage in the business of insurance at an office located in this State;

f. Engage in the business of insurance with the general public and not principally for the purpose of engaging in that business for his own account, for his employer, his relatives or any business in which he has an interest;

- g. Have no unsatisfied judgments against him that are material to the applicant's fitness for licensure as an insurance producer;
- h. Be of good reputation and good character and be trustworthy, competent and worthy of a license; and
- i. Have not been convicted of a crime of moral turpitude or any crime reflecting on the applicant's fitness for licensure as an insurance producer.

C. 17:22A-5 Nonresident insurance producer license.

5. The commissioner may issue a nonresident insurance producer license to any individual who holds comparable license authority in a state, other than this State, and meets all of the qualifications specified in subsections a., b., f., g., h., and i. of section 4 of this act and who:

- a. Provides a certification from the insurance licensing agency of the state where he maintains a principal office, evidencing that the applicant holds a currently valid license from that state and stating whether any formal disciplinary action has been initiated involving the applicant's license in that state; and
- b. Will not transact business at or from an office located in this State.

C. 17:22A-6 Resident organization insurance producer license.

6. The commissioner may issue a resident organization insurance producer license to any organization that meets all of the following qualifications:

- a. The organization is domiciled in this State or is authorized by the Secretary of State to do business in this State;
- b. The organization has completed an application in a form prescribed by the commissioner and signed by each partner or officer who holds an insurance producer license.
- c. The organization is worthy of a license, and the partners or officers, directors and owners are of good reputation, good moral character and have not been convicted of a crime of moral turpitude or any crime reflecting on their fitness for licensure as an insurance producer;
- d. The organization will engage in the business of insurance with the general public and not principally for the purpose of engaging in that business for its own account, for its subsidiaries and affiliates, or for its partners, officers, directors or owners; and

e. The organization has at least one partner or officer who holds a valid insurance producer license issued pursuant to this act with the authority or authorities requested in the application.

C. 17:22A-7 Nonresident organization insurance producer license.

7. The commissioner may issue a nonresident organization insurance producer license to an organization that meets all of the qualifications set forth in subsections b., c., d., and e. of section 6 of this act and holds comparable license authority in a state, other than this State. An applicant for a nonresident organization insurance producer license shall submit with its application a certification from the licensing agency of the state where it maintains a principal office evidencing that the applicant holds a currently valid license from that state and stating whether any formal disciplinary action has been initiated involving the applicant's license in that state.

C. 17:22A-8 Individual licenses necessary.

8. a. Granting an insurance producer license to an organization shall not authorize any partner, officer, owner or employee to engage in any activity for which a license is required by this act unless that individual holds an insurance producer license with the proper authority.

b. All licensed partners, officers and directors, and all owners with an ownership interest of 5% or more in the organization shall be responsible for the conduct of the insurance business activity of the licensed organization.

c. No insurance producer license shall be issued to any organization that is owned, operated or controlled, either directly or indirectly, by any person that has had an insurance license revoked by this State or any state, other than this State, or by any individual who has been convicted of a crime of moral turpitude or any crime reflecting on their fitness for licensure, within the preceding 10 years.

C. 17:22A-9 Nonresident licenses.

9. a. Nonresident insurance producer licenses shall be of a distinctive color or shall contain special language to distinguish them from resident insurance producer licenses.

b. A nonresident producer license shall only authorize the licensee to transact insurance business in this State if the producer is substantially engaged in the transaction of insurance business outside this State. The commissioner may promulgate rules or regulations necessary to implement the purposes of this subsection.

c. Each licensed nonresident insurance producer shall, by application for and issuance of, a license be deemed to have appointed the commissioner as agent to receive service of original legal process in this State in any cause of action or legal proceedings arising within this State out of transactions under the license. Service upon the commissioner shall be of the same force and effect as if served on the nonresident insurance producer. This appointment shall be irrevocable for as long as there can be any cause of action against the nonresident insurance producer arising out of insurance transactions for which a nonresident insurance producer license is required. Duplicate copies of the legal process shall be served upon the commissioner. At the time of service the commissioner shall be paid a fee established pursuant to section 21 of this act payable as costs in the action. Upon receiving service, the commissioner shall send one of the copies by registered or certified mail, return receipt requested, to the named nonresident insurance producer at his last known business or residence address.

d. The commissioner shall be immune from all civil actions resulting from the licensee's failure to receive service of process if the commissioner, pursuant to subsection c. of this section, forwards the service to the last business or residence address filed by the licensee as his address. Immunity under this subsection is in no way intended to diminish or otherwise affect the immunity available to the commissioner pursuant to the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq.

C. 17:22A-10 Authorities.

10. a. No insurance producer license shall be issued unless it designates one or more of the following authorities:

- (1) Life
- (2) Health
- (3) Property/Casualty
- (4) Surplus Lines
- (5) Title Insurance

b. The commissioner shall, by rule or regulation, designate the kind or kinds of insurance that may be transacted by licensed insurance producers holding each authority.

C. 17:22A-11 Renewal.

11. Every license issued to an insurance producer shall bear an expiration date and shall expire on that date unless renewed in

accordance with this act. The commissioner shall prescribe by rule or regulation the term of all insurance producer licenses. A renewal license shall be issued only after a renewal application in a form prescribed by the commissioner has been submitted by the licensee, along with the payment of any required license renewal fee and has been approved by the commissioner. No license shall be renewed unless the insurance producer has satisfied the requirements for continuing education that the commissioner may provide by rule or regulation.

C. 17:22A-12 Trade names.

12. Any licensee who trades or advertises using a fictitious, trade or firm name shall file with the commissioner a certified copy of the fictitious or trade name certificate issued by the Secretary of State or the Clerk of the County where the licensee maintains its principal place of business. The commissioner shall not accept for filing any name that is similar to another already on file; that would tend to be misleading to the public; or that is identical or similar to the name of any producer whose license has been revoked or suspended. No insurance producer shall file or use a name containing the words "insurance," "insurance company," "guaranty," "guarantee," "guaranty company," "guarantee company" or similar words unless the word "agent," "agency," "broker" or "brokerage" or a word of similar import is also used to distinguish the business from an insurance company. Nothing in this section shall require a filing by any person using its true legal name and the words "agency" or "insurance agency." The commissioner may promulgate rules or regulations necessary to implement the provisions of this section.

C. 17:22A-13 Deceased, disabled licensees.

13. A person, who is the surviving spouse, next of kin or administrator or executor of the estate of a deceased licensee or the legal guardian of a licensee who has become mentally or physically disabled, may maintain and continue the insurance business of the deceased or disabled licensee, and notwithstanding the provisions of N.J.S. 17B:17-13, R.S. 17:17-12, section 3 of this act, or paragraph (8) of subsection a. of section 17 of this act, share commissions on the insurance business only if that person enters into a written agreement with a licensed insurance producer who holds the proper authorities which would enable the insurance producer to maintain and continue the insurance business of the deceased or disabled licensee. The agreement shall provide that the licensed insurance producer is responsible for all insurance related activity of the business and shall provide for sharing of commissions between the in-

insurance producer and the spouse, next of kin, administrator, executor or legal guardian, as applicable for a period not to exceed six months. The commissioner may by rule or regulation establish procedures to effectuate the purposes of this section.

C. 17:22A-14 Surplus lines authority.

14. No license shall be issued or renewed granting surplus lines authority unless the applicant:

- a. Maintains a bona fide office in this State;
- b. Holds or will hold property/casualty authority; and
- c. Has filed with the commissioner a bond in favor of the commissioner or his successors in office in an amount of not less than \$25,000.00, aggregate liability, with authorized corporate surety or sureties approved by the commissioner. The commissioner may, in his discretion, require a bond in a larger amount commensurate with the volume of surplus lines business transacted or to be transacted by the licensee. The bond shall become payable to the commissioner upon failure of the licensee to comply with any of the requirements of subtitle 3 of Title 17 of the Revised Statutes (C. 17:17-1 et seq.), and shall continue in effect as long as the licensee holds surplus lines authority.

C. 17:22A-15 Agency contracts.

15. a. Any insurance company authorized to transact business in this State may, by written contract, appoint as its agent, a person that holds a valid insurance producer license issued in accordance with the provisions of this act. The contract shall authorize the insurance producer to act as an agent for the appointing company for all lines of insurance for which the company is authorized in this State and the agent holds authority in this State, unless specifically limited. The contract shall contain the duties, responsibilities and limitations of authority between the agent and the appointing company, and the agent shall abide by its terms. While the agent is properly licensed, an agency appointment shall continue in effect until termination in accordance with this act. Both the appointing company and the appointed agent shall maintain a copy of the agency contract in their office, and shall make the contract available for inspection by the commissioner upon request. Nothing contained in this subsection shall be construed as granting the commissioner the authority to determine contractual disputes between an appointing company and an appointed agent.

- b. Upon the cancellation of an agency contract, the insurance

company shall within 15 days file written notice of cancellation with the commissioner. Notice of cancellation shall be on a form prescribed by the commissioner and shall indicate the date of cancellation and the reason therefor. Agency appointment shall not terminate until the notice of cancellation has been filed with the commissioner. The requirements of this subsection shall not affect any notice or filing requirements otherwise established by law.

c. Any insurance company appointing an agent pursuant to this section shall file with the commissioner, on a form prescribed by the commissioner, a notice of appointment providing the names and business addresses of its agents, including notice of any limitations on the agent's authority. The filing of a single notice of appointment by each insurance company represented by a licensed organization shall cover all of its licensed insurance producers.

d. The filing of a notice of appointment pursuant to subsection c. of this section shall constitute notice that the named insurance producer has been appointed an agent for any subsidiary or affiliate company of the insurance company if certified copies of any resolution duly adopted by the board of directors of each insurance company requesting that authority are filed with the commissioner. The resolution shall also designate the primary insurance company for which all of the companies' agents must be appointed.

C. 17:22A-16 Limited insurance representatives.

16. a. The commissioner shall establish, by rule or regulation, the kind or kinds of insurance that may be marketed through limited insurance representatives. A person may act as a limited insurance representative for the kind of insurance authorized from the date on which he is registered and until the date of termination, pursuant to the provisions of this act.

b. Any insurance company authorized in this State to transact the kind or kinds of insurance that may be marketed through limited insurance representatives, may contract, in writing, with any person to act as its limited insurance representative and agent. An insurance company shall register with the commissioner the name and business address of each limited insurance representative, together with any other information that the commissioner may require. The insurance company shall provide written notice to the commissioner when any limited insurance representative contract is terminated.

c. Prior to contracting with any person to act as a limited insurance representative pursuant to subsection b. of this section, the

insurance company shall satisfy itself that the person to be registered is capable, competent and worthy; has established a permanent, bona fide office in this State; and has successfully completed any educational and examination requirements that the commissioner may by rule or regulation provide.

d. A limited insurance representative shall be subject to suspension or revocation of registration privileges, or imposition of a fine, for any violation of applicable standards of conduct as described in section 17 of this act, or violation of any other specific standards of conduct that the commissioner may provide by rule or regulation for limited insurance representatives. A limited insurance representative is subject to the limitations set forth in section 18 of this act.

e. A limited insurance representative shall maintain a permanent office in this State where the following items shall be kept:

(1) A copy of the written agreement between himself and the insurance company for which he serves as a limited insurance representative;

(2) Evidence of the completion of educational and examination requirements as prescribed by rule or regulation;

(3) A prominently displayed sign advising the public of the name of the insurance company represented and the kind of insurance available;

(4) Records of every insurance policy or contract written by the limited insurance representative; and

(5) Any other items or records that the commissioner may require by rule or regulation.

C. 17:22A-17 Denial, revocation, suspension of licenses.

17. a. The commissioner may refuse to issue or renew a license, or may revoke or suspend a license if he finds after notice and an opportunity for hearing in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) and any rules or regulations adopted thereunder, that the person has:

(1) Willfully violated any provision of the insurance laws of this State; .

(2) Intentionally withheld material information or made a material misstatement in an application for a license;

- (3) Obtained or attempted to obtain a license by fraud or misrepresentation;
- (4) Committed any fraudulent act;
- (5) Misappropriated or converted to his own use, or has illegally withheld, moneys which were received in the conduct of business and belonged to insurers, policyholders or others;
- (6) Used the license not for the purpose of engaging in the insurance business with the general public, but primarily for the purpose of soliciting or negotiating insurance contracts or policies covering himself, members of his family, members or employees of any organization of which he is an officer, or officers or employees of an organization in which the licensee or members of his immediate family own a controlling interest, or the property or interests of those persons. A license shall be deemed to have been used principally for this purpose if the commissioner finds that during any 12-month period the aggregate commissions or other compensation accruing or to accrue from that business have exceeded or will exceed the aggregate commissions or other compensation accruing or to accrue on other business written by the applicant or licensee during the same period;
- (7) Materially misrepresented the terms or conditions of insurance contracts or policies to any policyholder, insurance company, insurance producer or member of the general public;
- (8) Paid a rebate to any person or paid a commission, brokerage fee or other compensation to a person who is not licensed as an insurance producer in this State, or any state other than this State, for services rendered as an insurance producer;
- (9) Aided, abetted or assisted another person in violating any of the insurance laws of this State;
- (10) Has been convicted of a crime involving moral turpitude or any crime reflecting on the insurance producer's fitness for licensure;
- (11) Failed to file or maintain with the commissioner a complete and accurate business and home mailing address or to immediately notify the commissioner of any change in the business or home mailing address;
- (12) Failed to file and maintain with the commissioner the name or names of licensed employers or employees or to immediately notify

the commissioner of a change of employer or of licensed employees in a manner prescribed by rule or regulation of the commissioner;

(13) Failed to pay any fine imposed or restitution ordered by the commissioner;

(14) Failed to appear in response to any subpoena issued by the commissioner or his authorized designee; failed to produce any documents or other material requested in such a subpoena; or refused or failed to cooperate with an investigation by the commissioner of the activities of the person or any other licensee;

(15) Failed to keep, maintain or make available for inspection by the commissioner those records that the commissioner shall require to be kept and maintained by rule or regulation;

(16) Failed to notify the commissioner within 30 days of his conviction for any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; or failed to supply any documentation that the commissioner may request in connection therewith;

(17) Failed at any time to possess cash and accounts receivable for insurance premiums in an amount equal to or in excess of the accounts payable by the licensee for insurance premiums. Those accounts receivable shall not include insurance premiums owing the licensee more than 120 days after the last day of the month during which the insurance coverage became effective. As used in this section, "insurance premiums" include unearned premiums or premiums to be refunded to policyholders and both written and earned premiums whether actually collected from policyholders or not. The filing, within the preceding 10 years, of a petition in bankruptcy, a deed of assignment for the benefit of creditors pursuant to N.J.S. 2A:19-1 et seq., or any similar filing acknowledging at the time of that filing that the licensed insurance producer owed to one or more insurance companies, insurance producers, policyholders, premium finance companies or other persons any insurance premiums, including any unearned or return premiums due policyholders in an aggregate amount of \$5,000.00 or more, shall create a presumption that there has been a violation of this subsection;

(18) Collected from an insured or prospective insured any fee or other compensation other than a commission deductible from an

insurance premium, except when acting as an insurance broker or insurance consultant and:

(a) The fee or other compensation is based upon a written memorandum signed by the party to be charged, which memorandum specifies or defines the amount of compensation; and

(b) The amount of the fee or other compensation bears a reasonable relationship to the services rendered and is not discriminatory;

(19) Failed willfully or repeatedly to comply with standards and practices established pursuant to the plan of operation of any statutory mechanism for providing insurance coverage in this State, including, but not limited to, any automobile insurance plan operating pursuant to P.L. 1970, c. 215 (C. 17:29D-1), the New Jersey Automobile Full Insurance Underwriting Association operating pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.) and the New Jersey Insurance Underwriting Association operating pursuant to P.L. 1968, c. 129 (C. 17:37A-1 et seq.);

(20) Demonstrated unworthiness, lack of integrity, bad faith, dishonesty, financial irresponsibility or incompetency to transact business as an insurance producer.

b. In addition or as an alternative to any other penalty, the commissioner may impose a fine of up to \$5,000.00 for the first violation of any provision of this act, and not exceeding \$10,000.00 for each subsequent violation, and in appropriate circumstances may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution.

No person whose license has been revoked shall be issued a license unless the costs assessed pursuant to this subsection are paid.

c. The commissioner may promulgate rules or regulations necessary to implement the provisions of this section.

C. 17:22A-18 Revocation restrictions.

18. a. No person whose license has been revoked shall be entitled to apply for a license for a period of at least five years from the effective date of the revocation.

b. No individual whose license has been revoked or suspended may be a partner, officer, director or owner of a licensed organization, or otherwise be employed in any capacity by a licensee.

c. No licensee or person shall advertise, display or otherwise use

the name or fictitious, trade or firm name of a person whose license has been revoked.

C. 17:22A-19 Return of licenses on termination.

19. a. All licenses shall at all times be the property of the State of New Jersey and upon any suspension, revocation, refusal to renew, expiration or other termination shall no longer be in force and effect. Upon any suspension, revocation or other termination of a license, the licensee or other person having possession or custody of the license shall immediately deliver it to the commissioner by personal delivery or by registered or certified mail.

b. If a license is lost, stolen or destroyed, the commissioner may accept in lieu of return of license the affidavit of the licensee or other person or persons responsible for that license, stating the facts of that loss, theft or destruction.

C. 17:22A-20 Investigations; violations; ex parte orders.

20. a. The commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any licensee or any other person in connection with any investigation, hearing or other proceeding, without fee.

b. Subpoenas shall be issued in the name of the commissioner, the deputy commissioner or other employee designated by the commissioner, but no subpoena shall be issued except for good cause. Any person failing or refusing to comply with a subpoena may be ordered by a judge of the Superior Court, on application made by the commissioner or by the person at whose instance the subpoena was issued, to comply with the terms of the subpoena or be punished by the court for contempt. The court may proceed in a summary manner.

c. Any person violating any provision of this act for which no other penalty is provided shall be liable to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense to be recovered in a summary proceeding in accordance with "the penalty enforcement law," N.J.S. 2A:58-1 et seq.

d. In any formal proceeding, if the commissioner finds that the interests of the public require that immediate action be taken prior to completion of the hearing, the making of a determination and the entry of a final order, he may enter an appropriate order to be effective pending completion of the hearing and entry of a final order. These orders may be entered on ex parte proofs if the proofs indicate that the commissioner's withholding of any action until completion of a full hearing will be harmful to the public interest. Orders issued

pursuant to this section shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the ex parte order shall be held in any event within 20 days after it is entered. In the alternative, or in addition, the commissioner is authorized to institute a proceeding in the Superior Court, to be conducted in a summary manner, for an injunction against specified acts or conduct in aid of the proceedings pending before him, including temporary injunctions and interim restraints.

C. 17:22A-21 Fees.

21. a. The commissioner shall, by rule or regulation, set reasonable, necessary and appropriate fees to be charged for licensing insurance producers, filing agency appointments, filing limited insurance representative registrations, filing fictitious, trade or firm names, issuing certification of license status and processing any document required to be submitted, except that the total annual revenue generated from these fees shall not be less than the total annual revenue generated from equivalent fees for the preceding fiscal year.

b. Applicants may be charged a fee for any licensing examination conducted pursuant to this act in an amount designated or approved by the commissioner.

c. All fees payable to the commissioner pursuant to this section are nonrefundable.

d. The commissioner may, by rule or regulation, provide for the waiving of fees for disabled war veterans of the United States military service.

C. 17:22A-22 Contracts with private vendors.

22. The commissioner is authorized to enter into contracts with private vendors that are reasonable and necessary to implement the provisions of this act.

C. 17:22A-23 Transition procedures.

23. a. Persons licensed as agents, brokers or solicitors with general authorities in life, health, annuities, property-casualty, surplus lines or title insurance, or any combination thereof, may, upon submission of an application form prescribed by the commissioner and payment of any required fee, be issued a license as an insurance producer in accordance with this act.

b. The appointment of licensed persons previously appointed as agents with general authorities in life, health, annuities, property-casualty and title insurance and as agents of fraternal benefit so-

cieties shall be deemed to continue until cancelled or revoked in accordance with this act.

c. The commissioner shall provide for the orderly transition of license types and authorities as presently constituted to insurance producer licenses.

d. Agents presently licensed for limited lines may be registered as limited insurance representatives in accordance with this act without meeting further education and examination requirements, if the commissioner establishes that those kinds of insurance are appropriate for marketing by limited insurance representatives. If the commissioner does not establish the kind of insurance that is appropriate to be marketed by limited insurance representatives, upon expiration of these existing licenses, present licensees shall qualify for an insurance producer license with appropriate authority.

e. The commissioner may provide for orderly transition by promulgating rules or regulations and by establishing administrative processes that are reasonable, necessary, appropriate and consistent with this act.

C. 17:22A-24 Rules, regulations.

24. The commissioner may promulgate rules or regulations that are necessary to implement the provisions of this act.

C. 17:22A-25 No additional authorization.

25. No political subdivision of this State shall require any person to obtain or secure any additional authorization, license, permit or registration of any kind to conduct transactions which may lawfully be transacted by a licensee under a license granted pursuant this act.

Repealer.

26. R.S. 17:22-6, sections 1 through 20 of P.L. 1944, c. 175 (C. 17:22-6.1 through C. 17:22-6.20), sections 22 and 23 of P.L. 1944, c. 175 (C. 17:22-6.22 and C. 17:22-6.23), section 25 of P.L. 1944, c. 175 (C. 17:22-6.25), section 2 of P.L. 1975, c. 346 (C. 17:22-6.6a), section 5 of P.L. 1979, c. 312 (C. 17:22-6.9a), P.L. 1962, c. 211 (C. 17:22-6.16a), sections 27 and 28 of P.L. 1944, c. 175 (C. 17:22-6.27 and C. 17:22-6.28), section 9 of P.L. 1948, c. 462 (C. 17:22-6.36), sections 21 and 22 of P.L. 1960, c. 32 (C. 17:22-6.55 and C. 17:22-6.56), section 29 of P.L. 1959, c. 167 (C. 17:44A-29), section 6 of P.L. 1968, c. 248 (C. 17:46A-6), sections 30 through 33 of P.L. 1975, c. 106 (C. 17:46B-30 through C. 17:46B-33), N.J.S. 17B:22-2 through N.J.S. 17B:22-9, N.J.S. 17B:22-11 through N.J.S. 17B:22-13, N.J.S.

17B:22-20 through N.J.S. 17B:22-35, section 1 of P.L. 1983, c. 533 (C. 17B:22-1.1), section 6 of P.L. 1983, c. 533 (C. 17B:22-9a), section 8 of P.L. 1979, c. 312 (C. 17B:22-9.1) and section 10 of P.L. 1983, c. 533 (C. 17B:22-10.1) are repealed.

27. This act shall take effect on the 180th day following the date of enactment.

Approved October 29, 1987.

CHAPTER 294

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated from the General Fund the following sum for the purpose specified:

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
42 Natural Resource Management

15-4890 Marine Lands Management ... \$2,000,000
Special Purpose:

Implementation of responsibilities
under P.L. 1987, c. 156
(C. 13:9B-1 et seq.) (\$2,000,000)

2. Within six months of the effective date of this act the Department of Environmental Protection shall prepare a detailed written report describing the actual and proposed expenditure of the monies appropriated herein, and containing such recommendations for future funding which the department deems necessary to efficiently and expeditiously administer the freshwater wetlands program. The report shall also include the department's proposed schedule for assumption by the State of the federal wetlands permit program established pursuant to section 404 of the "Federal Water Pollution

Control Act Amendments of 1971" as amended by the "Clean Water Act of 1977" (33 U.S.C. §1344). The department shall submit this report, in writing, to the Senate Energy and Environment Committee and the Assembly Energy and Natural Resources Committee, or their designated successors.

3. This act shall take effect immediately.

Approved November 2, 1987.

CHAPTER 295

AN ACT concerning a survey to be conducted on the need for child care services by State employees 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 recent trends indicate that there is an increase in the number of single parents entering the work force; that even in two parent households, many women are returning to the work force after having children and both parents are working while they have preschool and school-aged children; that there are many latch-key children and preschool children in this State who need adequate care and supervision; that there is an urgent need for the State of New Jersey, as one of the largest employers in this State, to collect and compile complete and accurate information to determine whether there is a need for quality child care services by State employees; and that therefore, in order to effectively address this problem, the conduction of a survey on the need for child care services by State employees would provide the base of information required to analyze this problem and plan for and provide child care services to State employees, if necessary.

2. The Division on Women in the Department of Community Affairs established pursuant to P.L. 1974, c. 87 (C. 52:27D-43.8 et seq.), in consultation with the Department of Personnel and the Division of Youth and Family Services in the Department of Human Services, shall conduct a survey to determine whether there is a need for child care services by State employees including employees of all State departments and agencies. The division may also consult with the Division on Women's Task Force on Child Care, the advisory

council on child care established pursuant to section 14 of P.L. 1983, c. 492 (C. 30:5B-14), the Association for Children of New Jersey and New Jersey businesses that sponsor child care services concerning the preparation and administration of the survey.

3. The Division on Women shall report its findings and recommendations to the Legislature and the Governor within one year following the effective date of this act including, but not limited to, the number of State employees and children needing child care services, the type of child care services that are needed, the estimated cost of providing those services, the estimated cost savings to the State by providing the child care services due, for example, to the improved morale of State employees and improved employee attendance, the type of child care services currently utilized by the employees, if any, and the availability and cost of child care services in the community.

4. There is appropriated \$50,000.00 to the Department of Community Affairs from the General Fund to carry out the purposes of this act.

5. This act shall take effect immediately and expire one year following enactment.

Approved November 2, 1987.

CHAPTER 296

AN ACT concerning immunity from liability for civil damage under certain circumstances for members of volunteer first aid and ambulance squads, and amending P.L. 1963, c. 140.

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

1. Section 1 of P.L. 1963, c. 140 (C. 2A:62A-1) is amended to read as follows:

C. 2A:62A-1 Civil immunity for emergency care.

1. Any individual, including a person licensed to practice any method of treatment of human ailments, disease, pain, injury, deformity, mental or physical condition, or licensed to render services ancillary thereto, or any person who is a volunteer member of a duly incorporated first aid and emergency or volunteer ambulance or

rescue squad association, who in good faith renders emergency care at the scene of an accident or emergency to the victim or victims thereof, or while transporting the victim or victims thereof to a hospital or other facility where treatment or care is to be rendered, shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.

2. This act shall take effect immediately.

Approved November 2, 1987.

CHAPTER 297

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION	
40 Community Development and Environmental Management	
42 Natural Resource Management	
14-4885 Shellfish and Marine Fisheries	
Management	\$95,000
Special Purpose:	
Marine Mammal Stranding Center at	
Brigantine, New Jersey—miscellaneous	
operational and capital expenditures,	
and marine mammal and sea turtle	
die-off	(\$95,000)

2. This act shall take effect immediately.

Approved November 2, 1987.

CHAPTER 298

AN ACT concerning hearing aid assistance for the aged and disabled, supplementing Title 30 of the Revised Statutes and making an appropriation.

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

C. 30:4D-36 Hearing aid assistance.

1. There is established in the Department of Human Services a program which shall be known as "Hearing Aid Assistance for the Aged and Disabled."

C. 30:4D-37 \$100 maximum.

2. A person eligible for the Hearing Aid Assistance for the Aged and Disabled Program is entitled to receive a payment of up to \$100.00 in a calendar year in which a hearing aid is purchased to offset the cost of the hearing aid. For the purposes of this act, "hearing aid" means an ear-level or body-worn electroacoustic instrument for amplifying sound whose basic components are a microphone, amplifier and receiver.

C. 30:4D-38 Pharmaceutical assistance recipients eligible.

3. A person who meets the age or disability, income and residency requirements of the "Pharmaceutical Assistance to the Aged and Disabled" program, P.L. 1975, c. 194 (C. 30:4D-20 et seq.), is eligible for hearing aid assistance pursuant to this act if he is not otherwise qualified for Medicaid pursuant to P.L. 1968, c. 413 (C. 30:4D-1 et seq.).

C. 30:4D-39 Other programs.

4. a. If an otherwise eligible person's hearing aid costs are covered in whole by any other State or federal government program or insurance contract, the person is not eligible for hearing aid assistance under this act.

b. If an eligible person's hearing aid costs are covered in part by any other State or federal government program or insurance contract, the person may be entitled to receive a reduced hearing aid assistance under this act.

C. 30:4D-40 Payment system; eligibility determination.

5. The Commissioner of Human Services shall by regulation establish a system for issuing payments to eligible persons and a system for determining eligibility which includes provisions for submitting proof of an applicant's actual and anticipated annual income,

evidence of complete or partial coverage of hearing aid costs by any other government program or insurance contract and actual hearing aid costs incurred during the year.

C. 30:4D-41 Rules, regulations.

6. The Commissioner of Human Services shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) adopt rules and regulations necessary to carry out the purposes of this act.

C. 30:4D-42 Casino revenue funding.

7. The Hearing Aid Assistance for the Aged and Disabled Program shall be funded by the Casino Revenue Fund created pursuant to section 145 of P.L. 1977, c. 110 (C. 5:12-145).

8. There is appropriated from the Casino Revenue Fund to the Department of Human Services \$540,000.00 to effectuate the purposes of this act.

9. This act shall take effect on the 90th day following enactment.

Approved November 4, 1987.

CHAPTER 299

AN ACT providing for the designation of a children's hospital for southern New Jersey 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. This act shall be known and may be cited as the "Southern New Jersey Children's Hospital Act."

2. The Legislature finds and declares that:

a. Cooper Hospital/University Medical Center in the City of Camden is a major pediatric training facility for medical students from the University of Medicine and Dentistry of New Jersey and a nationally known acute care hospital which provides unique diagnostic and specialty treatment services for children throughout New Jersey and particularly for those living in the 10 southernmost counties of this State;

b. A significant number of the children treated at this facility require a level of specialized treatment and care that is not available at other hospitals in southern New Jersey;

c. Cooper Hospital/University Medical Center offers a unique combination of an exceptionally skilled medical and nursing staff that is dedicated to excellence in the treatment and care of critically ill children and a comprehensive array of the most modern medical equipment, sophisticated medical technology and diverse specialized health care services;

d. Children's Hospital of New Jersey, a unit of United Hospitals Medical Center in the City of Newark, was designated by the Commissioner of Health as the State's specialty acute care children's hospital pursuant to P.L. 1985, c. 306 (C. 26:2H-18a et al.); however, this facility does not adequately meet the needs of critically ill children who are residents of southern New Jersey because of the great distance between Newark and most of the southern region of this State;

e. Although the overwhelming majority of critically ill children living in southern New Jersey who are covered by the Medicaid program established pursuant to P.L. 1968, c. 413 (C. 30:4D-1 et seq.) receive their inpatient treatment at Cooper Hospital/University Medical Center, about 5,000 children from this region are treated in an acute care hospital outside of New Jersey each year, the majority in Philadelphia where the cost of inpatient pediatric care is substantially greater than in New Jersey hospitals, which cost must be borne by the residents of this State in the form of higher health insurance premiums and taxes;

f. Medical knowledge indicates that the health care needs of seriously ill children are best met in a full-fledged specialty children's acute care hospital, and over 125 such facilities have been established throughout the United States; however, southern New Jersey is the largest region on the east coast which does not have a designated facility of this kind; and

g. It is in the public interest generally, and in the interest of the children of southern New Jersey specifically, for this State to designate an acute care specialty hospital to provide specialized treatment and care to critically ill children living in the 10 southernmost counties of New Jersey.

C. 26:2H-18c Cooper Hospital designated.

3. a. The Commissioner of Health, subject to the provisions of subsection b. of this section, shall designate Cooper Hospital/University Medical Center in the City of Camden as the State's specialty acute care children's hospital for the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem.

b. The designation by the Commissioner of Health pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of a written agreement between Cooper Hospital/University Medical Center and a majority of the acute care hospitals providing inpatient pediatric services which are located in the counties listed in subsection a. of this section.

The written agreement shall state that the other facility recognizes Cooper Hospital/University Medical Center as the State's specialty acute care children's hospital for the counties listed in subsection a. of this section and shall set forth the basis on which the other facility shall make referrals to Cooper Hospital/University Medical Center.

4. The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved November 4, 1987.

CHAPTER 300

AN ACT to authorize the township of Nutley in the county of Essex, to make permanent the appointment of Aaron Morrison to the police department of the township of Nutley.

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 appropriate appointing authority of the township of Nutley, in the county of Essex, is authorized to make permanent the appointment of Aaron Morrison to the police department of the

township of Nutley in the classified service upon the attaining of a passing grade on an appropriate civil service examination and notwithstanding any other requirements of law.

2. The Board of Trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act, if there is paid into the retirement system in a manner which the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the township of Nutley for the purpose of adopting it.

Approved November 4, 1987.

CHAPTER 301

AN ACT concerning certain securities issuers or guarantors and disclosure requirements and amending P.L. 1967, c. 93.

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

1. 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 any 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 Advisers 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 Advisers 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;

(r) "Blind pool," in addition to the usual construction placed on it, means an offering of securities in which the prospectus discloses no specific purpose to which the proceeds of the offering will be put, or does not state with specificity assets to be purchased, projects to be undertaken, or business to be conducted with at least 65% of the proceeds of the offering.

2. 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 exempted 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, provided that the issuer or guarantor is not in default as to principal or interest with respect to an obligation issued by the issuer or a successor of the issuer, or an obligation guaranteed by the guarantor or a successor to the guarantor;

(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 Advisers 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 Advisers 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 Advisers 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 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 exempted 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 bureau chief may by rule require that the customer acknowledge upon a form prescribed by the bureau chief that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(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 P.L. 1967, c. 93 (C. 49:3-61); and (iii) 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 under this subsection (12), 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. In calculating the number of purchasers permitted under this paragraph, accredited investors shall be excluded.

(c) The bureau chief may by order deny or revoke any exemption specified in paragraph (9), (10) or (11) or subsection (a) or in subsection (b) with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the bureau chief may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this subsection. Upon the entry of a summary order, the bureau chief shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. The order will remain in effect until it is modified or vacated upon notice to all interested parties by the bureau chief. No order under this subsection may operate retroactively.

(d) In any proceeding under this act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

3. Section 17 of P.L. 1967, c. 93 (C. 49:3-64) is amended to read as follows:

C. 49:3-64 Stop orders.

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;

(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 (A) 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) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business; (C) is the subject of an effective order of the bureau chief denying, suspending, or revoking securities registration, registration as a broker-dealer, agent, or investment advisor; (D) is the subject of an order entered within the past five years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking securities registration, registration as a broker-dealer, agent, or investment advisor, or the substantial equivalent of those terms as defined in the "Uniform Securities Law (1967)," P.L. 1967, c. 93 (C. 49:3-48 et seq.), or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association registered under the "Securities Exchange Act of 1934" (15 U.S.C. §78a et seq.), or is the subject of a United States Postal Service fraud order, except the bureau chief may not institute a revocation or suspension proceeding pursuant to this subsubparagraph (D) of this subparagraph more than one year from the date of the order relied on and he may not enter an order pursuant to this subsubparagraph (D) of this subparagraph on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under the "Uniform Securities Law (1967)," P.L. 1967, c. 93 (C. 49:3-48 et seq.); (E) has engaged in dishonest or unethical practices in the securities business; or (F) is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature; or

(ix) The offering is a blind pool.

(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.

4. This act shall take effect immediately.

Approved November 4, 1987.

CHAPTER 302

AN ACT concerning the sale of certified milk, amending P.L. 1947, c. 177 and P.L. 1964, c. 62 and repealing R.S. 24:10-74 through R.S. 24:10-88.

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

1. Section 7 of P.L. 1947, c. 177 (C. 26:1A-7) is amended to read as follows:

C. 26:1A-7 State Sanitary Code.

7. The Public Health Council shall have power, by the affirmative vote of a majority of all its members, to establish, and from time

to time amend and repeal, such reasonable sanitary regulations not inconsistent with the provisions of this act or the provisions of any other law of this State as may be necessary properly to preserve and improve the public health in this State. The regulations so established shall be called the State Sanitary Code.

The State Sanitary Code may cover any subject affecting public health, or the preservation and improvement of public health and the prevention of disease in the State of New Jersey, including the immunization against disease of all school children in the State of New Jersey. In addition thereto, and not in limitation thereof, said State Sanitary Code may contain sanitary regulations: (a) prohibiting nuisances hazardous to human health; (b) (Deleted by amendment) (c) regulating the use of privies and cesspools; (d) regulating the disposition of excremental matter; (e) regulating the control of fly and mosquito breeding places; (f) regulating the detection, reporting, prevention and control of communicable and preventable diseases; (g) regulating the conduct of public funerals; (h) regulating the conduct of boarding homes for children; (i) regulating the conduct of maternity homes and the care of maternity and infant patients therein; (j) regulating the conduct of camps; (k) (Deleted by amendment, P.L. 1987, c. 302) (l) regulating the preparation, handling transportation, burial or other disposal, disinterment and reburial of dead human bodies; and (m) prescribing standards of cleanliness for public eating rooms and restaurants.

Prior to the final adoption by the council of any sanitary regulation or amendment thereto or repealer thereof the council shall hold a public hearing thereon. The council shall cause to be published, at least once, not less than 15 days prior to such hearing, in each of the counties of the State in a newspaper published in each of said counties, or if no newspaper be published in any such county, then in a newspaper circulated in such county, a notice of such hearing, specifying the time when and the place where such hearing will be held, together with a brief summary of the proposed regulation, amendment or repealer and a statement that copies of the text thereof may be obtained from the State Commissioner of Health or from the board of health of any municipality in the State. The State Department of Health shall prepare and make available on request therefor, copies of the text of such proposed regulations and changes therein in the manner described in such public notice.

2. Section 17 of P.L. 1964, c. 62 (C. 24:10-57.17) is amended to read as follows:

C. 24:10-57.17 Pasteurization required.

17. No person shall sell, offer for sale, or distribute to the ultimate consumer any milk or cream that is not pasteurized.

Repealer.

3. R.S. 24:10-74 through R.S. 24:10-88 are repealed.

4. This act shall take effect immediately.

Approved November 4, 1987.

CHAPTER 303

AN ACT establishing a New Jersey State Trade Office in Asia, supplementing P.L. 1981, c. 122 (C. 52:27H-1 et seq.) and making an appropriation.

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

C. 52:27H-22.2a New Jersey State Trade Office in Asia.

1. The Division of International Trade in the Department of Commerce and Economic Development shall establish a New Jersey State Trade Office located in Asia.

C. 52:27H-22.2b Purpose.

2. The purpose of the New Jersey State Trade Office in Asia shall be to assist in creating higher levels of employment in the State by promoting the export of goods and services produced in New Jersey and by encouraging companies to invest in manufacturing and other employment generating facilities in the State. The office shall publicize the many advantages of investing in New Jersey, including the high quality of the State's work force, transportation facilities and government services for productive enterprises.

C. 52:27H-22.2c Report.

3. The Department of Commerce and Economic Development shall submit a report to the Senate Revenue, Finance and Appropriations Committee and the Assembly Appropriations Committee on the projected costs and planned activities of the New Jersey State Trade Office established by this act, including an enumeration of costs by type, prior to expenditure of any funds appropriated by this act.

4. There is appropriated from the General Fund to the Depart-

ment of Commerce and Economic Development \$500,000.00 to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved November 10, 1987.

CHAPTER 304

AN ACT concerning correctional facilities, amending R.S. 30:1-7 and P.L. 1976, c. 98 and supplementing Title 30 of the Revised Statutes.

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

1. 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,
Developmental Center at Ancora,
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,
Arthur Brisbane Child Center at Allaire,
Board of Public Welfare,
Commission for the Blind and Visually Impaired.

The correctional institutions 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:

New Jersey State Prison,
East Jersey State Prison,
Bayside State Prison,
Riverfront State Prison,
Northern State Prison,
Garden State Reception and Youth Correctional Facility,
Albert C. Wagner Youth Correctional Facility,
Edna Mahan Correctional Facility for Women,
Mountainview Youth Correctional Facility,
New Jersey Training School for Boys,
Lloyd McCorkle Training School for Boys and Girls.

2. Section 8 of P.L. 1976, c. 98 (C. 30:1B-8) is amended to read as follows:

C. 30:1B-8 Transfer to Department of Corrections.

8. The following correctional institutions of this State are hereby transferred from the Department of Institutions and Agencies to the Department of Corrections established hereunder:

New Jersey State Prison,
East Jersey State Prison,
Bayside State Prison,
Garden State Reception and Youth Correctional Facility,
Albert C. Wagner Youth Correctional Facility,
Edna Mahan Correctional Facility for Women,
Mountainview Youth Correctional Facility,
New Jersey Training School for Boys,
Lloyd McCorkle Training School for Boys and Girls,
Adult Diagnostic and Treatment Center, Avenel.

Any State institution and satellite facilities heretofore or hereafter established for any purpose similar to the above institutions and

agencies shall be assigned to and maintained and operated by the Department of Corrections.

C. 30:1B-8.1 Name changes.

3. (New section) Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to Trenton State Prison, the same shall mean and refer to New Jersey State Prison.

Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to Rahway State Prison, the same shall mean and refer to East Jersey State Prison.

Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to Leesburg State Prison, the same shall mean and refer to Bayside State Prison.

C. 30:1B-8.2 Prohibition on use of governmental unit name.

4. (New section) Any State correctional institution or satellite facility hereafter constructed or established shall not include as part of its name or title the name of any local governmental unit.

5. This act shall take effect one year from the date of enactment.

Approved November 30, 1987.

CHAPTER 305

AN ACT providing relief for family day care homes from the restrictions of certain zoning laws.

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

C. 40:55D-66.4 Home occupation for zoning law purposes.

1. Notwithstanding the provisions of any law to the contrary, family day care homes shall be deemed to be a home occupation for purposes of municipal zoning laws and family day care homes shall not be subject to more stringent restrictions than exist or apply to all other home occupations in the particular residential zone in which the family day care home is located.

C. 40:55D-66.5 Family day care home.**2. As used in this act:**

“Family day care home” means any private residence approved by the Division of Youth and Family Services or an organization with which the division contracts for family day care in which child care services are regularly provided to no less than three and no more than five children for no less than 15 hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:

- a. The child being cared for is legally related to the provider; or
- b. The child is being cared for as part of a cooperative agreement between parents for the care of their children by one or more of the parents, where no payment for the care is being provided.

3. This act shall take effect immediately.

Approved November 30, 1987.

CHAPTER 306

AN ACT appropriating \$30,000,000.00 from the “Pinelands Infrastructure Trust Fund” to provide grants and loans to local units of government in the pinelands area for infrastructure capital projects necessary to accommodate development in regional growth areas.

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 “Pinelands Infrastructure Trust Fund,” created pursuant to section 14 of the “Pinelands Infrastructure Trust Bond Act of 1985” (P.L. 1985, c. 302), the sum of \$30,000,000.00 to provide grants and loans to local units in the pinelands area for infrastructure capital projects necessary to accommodate development in the regional growth areas in a manner consistent with the plan prepared pursuant to section 4 of that act. This sum shall be allocated as follows:

a. \$19,600,000.00 for State grants to the following local units:

Local Unit	Grant Amount:
Monroe Municipal Utilities Authority, Interceptor	\$ 2,083,000
Atlantic County Utilities Authority, Coastal Interceptor	9,200,000
Waterford Municipal Utilities Authority, Sewage Treatment Plant	1,680,000
Ocean County Utilities Authority, Ridgeway- Cabin Branch Interceptor	2,432,000
Chesilhurst Borough, Interceptor	205,271
Chesilhurst Borough, Collection System	211,929
Hamilton Township Municipal Utilities Authority, Harding Highway Interceptor ..	570,000
Galloway Township, Pinehurst Interceptors	263,824
Stafford Municipal Utilities Authority, Ocean Acres Skeleton System	1,920,002
Total, Local Unit Grants	18,566,026
Contingency Grants	<u>1,033,974</u>
Total Grants	\$19,600,000

b. \$9,800,000.00 for State loans to local units:

Monroe Municipal Utilities Authority, Interceptor	\$ 1,041,500
Atlantic County Utilities Authority, Coastal Interceptor	4,600,000
Waterford Municipal Utilities Authority, Sewage Treatment Plant	840,000
Local Unit	Grant Amount:
Ocean County Utilities Authority, Ridgeway- Cabin Branch Interceptor	\$1,216,000
Chesilhurst Borough, Interceptor	102,635
Chesilhurst Borough, Collection System	105,965
Hamilton Township Municipal Utilities Authority, Harding Highway Interceptor	285,000
Galloway Township, Pinehurst Interceptors	131,912
Stafford Municipal Utilities Authority, Ocean Acres Skeleton System	<u>960,001</u>

Total, Local Unit Loans	\$ 9,283,013
Contingency Loans	<u>516,987</u>
Total Loans	\$ 9,800,000

c. \$500,000.00 for State costs associated with preparation of the Pinelands Infrastructure Master Plan and the issuing of bonds.

d. \$100,000.00 for grants to local units for costs associated with the planning and design of infrastructure capital projects.

e. The provisions of subsections a. and b. of this section to the contrary notwithstanding, the Commissioner of Environmental Protection may, with the approval of the Pinelands Commission, allocate the grants and loans allocated to the Chesilhurst Borough Interceptor and the Waterford Municipal Utilities Authority Sewage Treatment Plant to the Camden County Municipal Utilities Authority for those projects.

2. In order to provide flexibility in administering this act, the Commissioner of Environmental Protection, with the approval of the Pinelands Commission, may apply to the Director of the Division of Budget and Accounting for permission to transfer a portion of any loan or grant authorized, or any amount from the Contingency Grants or Contingency Loans appropriations, in section 1 of this act to any other loan or grant authorized in section 1 of this act. Upon the approval of an application by the director and by the Legislative Budget and Finance Officer in writing, the commissioner shall make the transfer as provided by law.

3. Any loan made to a local unit with funds appropriated pursuant to this act shall bear interest at a rate not to 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 approval of the loan by the Department of Environmental Protection. Payments of principal and interest on loans made pursuant to this act shall be paid to the "Pinelands Infrastructure Trust Fund." Loans and grants made pursuant to this act shall be in accordance with a written loan or grant agreement, the form of which shall be specified by the State Treasurer.

4. The expenditure of the sums appropriated by this act is subject to the provisions of P.L. 1985, c. 302.

5. This act shall take effect immediately.

Approved November 30, 1987.

CHAPTER 307

AN ACT concerning information provided to municipal court judges and victims in motor vehicle accidents and supplementing Title 2A of the New Jersey Statutes and Title 39 of the Revised Statutes.

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

C. 39:5-51 Information to municipal court judges.

1. In a municipal court case which involves a violation of the motor vehicle and traffic laws as set forth in Title 39 of the Revised Statutes or in any other case which involves directly or indirectly a motor vehicle accident, the municipal prosecutor shall inform the municipal court judge in writing during the initial appearance of a defendant before the court of the death of any person or the extent of any personal injury sustained by a person as a result of the violation of the motor vehicle or traffic laws by the defendant or as a result of a motor vehicle accident which occurred during the violation of any other law by the defendant.

C. 39:5-52 Information to victim.

2. a. A victim of a motor vehicle accident as defined in this section shall, upon his request, be provided in writing by the court adjudicating any offense committed during that motor vehicle accident with the following information:

- (1) Information about the victim's 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.

As used in this section, "victim" means, unless otherwise indicated, a person who suffers death, or any personal, physical, or

psychological injury as a result of a motor vehicle accident. In the case of death, "victim" means a surviving spouse, child, or the next of kin.

When a need is demonstrated, the information in this section shall be provided in the Spanish as well as the English language.

b. A victim shall be provided with an opportunity to consult with the prosecutor prior to a dismissal of a case or the filing of a proposed plea negotiation with the court if a victim suffered death or sustained bodily injury or serious bodily injury as defined in N.J.S. 2C:11-1.

c. This section shall not be construed to alter or limit the authority or discretion of the Supreme Court to regulate the practice of plea agreements in municipal court, or alter or limit the authority or discretion of a prosecutor.

3. This act shall take effect immediately.

Approved December 2, 1987.

CHAPTER 308

AN ACT to amend the "State Planning Act," approved January 2, 1986 (P.L. 1985, c. 398).

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

1. Section 4 of P.L. 1985, c. 398 (C. 52:18A-199) is amended to read as follows:

C. 52:18A-199 State Development and Redevelopment Plan.

4. The commission shall:

a. Prepare and adopt within 36 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.

2. This act shall take effect immediately.

Approved December 9, 1987.

CHAPTER 309

AN ACT appropriating monies from the "Water Supply Fund" for State projects for programs and studies related to ground and surface water resources and water conservation and for local projects to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities, all as recommended by the New Jersey Statewide 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, as amended by P.L. 1983, c. 355, the sum of \$23,805,000.00 for State projects for programs and studies related to ground and surface water resources and water conservation and for local projects to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities; for studies relating to groundwater resources; for updating the New Jersey Statewide Water Supply Master Plan and for conservation programs, all as recommended by the New Jersey Statewide Water Supply Plan, as follows:

Loans for high priority rehabilitation and consolidation of inadequate water supply systems	\$17,800,000.00
Watershed and aquifer protection, including groundwater programs	3,755,000.00
New Jersey Statewide Water Supply Master Plan update	1,750,000.00
Water Conservation Program	<u>500,000.00</u>
Total Appropriation, Department of Environmental Protection	\$23,805,000.00

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

3. a. In order to provide flexibility in administering this act, the Commissioner of Environmental Protection may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer funds from one category or project to another. The application shall specifically identify which project or projects will be allocated increased funding and which will lose funding, and the respective amounts thereof. Upon the written approval of an application by the director and by the Joint Budget Oversight Committee or its successor, the director shall make the transfer as provided by law.

b. From the sums appropriated by this act, the commissioner may allocate funds, for personal services by contract, or, in lieu thereof, by State employees for the purpose of planning, engineering, design, research, construction, property acquisition, or other costs related to construction. The expenditure of any of said funds is

subject to approval as a transfer in accordance with subsection a. of this section.

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

5. This act shall take effect immediately.

Approved December 9, 1987.

CHAPTER 310

AN ACT concerning certain exclusions from gross income, amending N.J.S. 54A:5-1, supplementing chapter 6 of Title 54A of the New Jersey Statutes, and repealing sections 2 through 6 of P.L. 1981, c. 423.

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

1. N.J.S. 54A:5-1 is amended to read as follows:

New Jersey gross income defined.

54A:5-1. New Jersey Gross Income Defined. New Jersey gross income shall consist of the following categories of income:

a. Salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered whether in cash or in property.

b. Net profits from business. The net income from the operation of a business, profession or other activity after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the method of accounting allowed for federal income tax purposes but without deduction of taxes based on income.

c. Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real or personal, whether tangible or intangible as determined in accordance with the method of ac-

counting allowed for federal income tax purposes. For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for federal income tax purposes.

For the tax year 1976, any taxpayer with a tax liability under this subsection, or under the "Tax on Capital Gains and Other Unearned Income Act" (P.L. 1975, c. 172), shall not be subject to payment of an amount greater than the amount he would have paid if either return had covered all capital transactions during the full tax year 1976; provided, however, that the rate which shall apply to any capital gain shall be that in effect on the date of the transaction. To the extent that any loss is used to offset any gain under P.L. 1975, c. 172, it shall not be used to offset any gain under the "New Jersey Gross Income Tax Act" (P.L. 1976, c. 47).

The term "net gains or income" shall not include gains or income derived from obligations which are referred to in clause (1) or (2) of section 54A:6-14 of this act or from securities which evidence ownership in a qualified investment fund as defined in section 2 of P.L. 1987, c. 310 (C. 54A:6-14.1). The term "net gains or net income" shall not include gains or income from transactions to the extent to which nonrecognition is allowed for federal income tax purposes. The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. For purposes of this clause, stock or securities issued for services shall not be considered as issued in return for property.

For purposes of this clause, the term "reorganization" means—

- (i) A statutory merger or consolidation;
- (ii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(iii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(iv) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred;

(v) A recapitalization;

(vi) A mere change in identity, form, or place of organization however effected; or

(vii) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subclause as “controlling corporation”) which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under subclause (i) if such transaction would have qualified under subclause (i) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction;

(viii) A transaction otherwise qualifying under subclause (i) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this subclause as the “controlling corporation”) which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

For purposes of this clause, the term “control” means the ownership of stock possessing at least 80% of the total combined voting

power of all classes of stock entitled to vote and at least 80% of total number of shares of all other classes of stock of the corporation.

For purposes of this clause, the term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under subclause (i) by reason of subclause (vii) the term "a party to a reorganization" includes the controlling corporation referred to in such subclause (vii).

Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's basis for the stock or securities received shall be the same as the taxpayer's actual or attributed basis for the stock, securities or property surrendered in exchange therefor.

d. Net gains or net income derived from or in the form of rents, royalties, patents, and copyrights.

e. Interest, except interest referred to in clause (1) or (2) of N.J.S. 54A:6-14, or distributions paid by a qualified investment fund as defined in section 2 of P.L. 1987, c. 310 (C. 54A:6-14.1), to the extent provided in that section.

f. Dividends. "Dividends" means any distribution in cash or property made by a corporation, association or business trust, (1) out of accumulated earnings and profits, or (2) out of earnings and profits of the year in which such dividend is paid.

The term "dividends" shall not include distributions paid by a qualified investment fund as defined in section 2 of P.L. 1987, c. 310 (C. 54A:6-14.1), to the extent provided in that section.

g. Gambling winnings.

h. Net gains or income derived through estates or trusts.

i. Income in respect of a decedent.

j. Amounts distributed or withdrawn from an employee trust attributable to contributions to the trust which were excluded from gross income under the provisions of chapter 6 of Title 54A of the New Jersey Statutes and pensions and annuities except to the extent of exclusions in section 54A:6-10 hereunder, notwithstanding the provisions of N.J.S. 18A:66-51, P.L. 1973, c. 140, s. 41 (C. 43:6A-41), P.L. 1954, c. 84, s. 53 (C. 43:15A-53), P.L. 1944, c. 255, s. 17 (C. 43:16A-17), P.L. 1965, c. 89, s. 45 (C. 53:5A-45), R.S. 43:10-14, P.L.

1943, c. 160, s. 22 (C. 43:10-18.22), P.L. 1948, c. 310, s. 22 (C. 43:10-18.71), P.L. 1954, c. 218, s. 32 (C. 43:13-22.34), P.L. 1964, c. 275, s. 11 (C. 43:13-22.60), R.S. 43:10-57, P.L. 1938, c. 330, s. 13 (C. 43:10-105), R.S. 43:13-44, and P.L. 1943, c. 189, s. 5 (C. 43:13-37.5).

k. Distributive share of partnership income.

l. Amounts received as prizes and awards, except as provided in sections 54A:6-8 and 54A:6-11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

o. Income, gain or profit derived from acts or omissions defined as crimes or offenses under the laws of this State or any other jurisdiction.

C. 54A:6-14.1 Exemption of distributions of qualified investment fund.

2. (New section) Gross income shall not include distributions paid by a qualified investment fund, to the extent that the distributions are attributable to interest or gain from obligations described in N.J.S. 54A:6-14.

For the purposes of this act, “qualified investment fund” means any investment company or trust registered with the Securities and Exchange Commission, or any series of such investment company or trust, which for the calendar year in which the distribution is paid:

a. Has no investments other than interest-bearing obligations, obligations issued at a discount, and cash and cash items, including receivables; and

b. Has not less than 80% of the aggregate principal amount of all of its investments, excluding cash and cash items, which cash items shall include receivables, in obligations described in N.J.S. 54A:6-14.

For purposes of this section, “series” means a segregated portfolio of assets, the beneficial interests in which are owned by the holders of a class or series of stock or shares of the investment company or trust that is preferred over all other classes or series in respect to the portfolio of assets.

Repealer.

3. Sections 2 through 6 of P.L. 1981, c. 423 (C. 54A:6-16 through 54A:6-20, inclusive) are repealed.

4. This act shall take effect on the 90th day after enactment and apply to taxable years beginning on or after January 1, 1987.

Approved December 11, 1987.

CHAPTER 311

AN ACT concerning death benefits for members of the Legislature under the Public Employees' Retirement System and supplementing P.L. 1972, c. 167 (C. 43:15A-135 et seq.).

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

C. 43:15A-141 Death benefits for legislators.

1. A member of the Legislature shall be entitled to the noncontributory and contributory death benefits under the retirement system without proof of insurability. If contributory death benefits become payable with respect to the member, required contributions for any period of service as a legislator which have not been paid shall be deducted from the benefit.

2. This act shall take effect immediately and shall be retroactive to January 8, 1974.

Approved December 14, 1987.

CHAPTER 312

AN ACT concerning medical 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:72B-25 Definitions.

1. As used in this act:

a. "Board" means the State Board of Higher Education;

b. "School" means the Morehouse School of Medicine in Atlanta, Georgia.

C. 18A:72B-26 Contract for acceptance of New Jersey residents.

2. The State Board of Higher Education is authorized to contract with the Morehouse School of Medicine for the acceptance of New Jersey residents to study medicine.

C. 18A:72B-27 Eligibility.

3. Commencing with the first year class to be admitted for the 1987-88 academic year, the board shall contract with the school for the acceptance of two to four medical students. The students shall be residents of New Jersey who are from a disadvantaged or minority background and are certified as eligible by the Chancellor of Higher Education. Admission of eligible applicants is based solely on academic merit.

C. 18A:72B-28 Review of admissions procedures, records.

4. The chancellor, at his discretion, shall periodically review the school's admissions procedures and records to determine if these procedures comply with the terms of the contract.

C. 18A:72B-29 Financial assistance.

5. Any student admitted to the school pursuant to this act is eligible for all financial assistance in the same manner as if the student is attending an institution of higher education in New Jersey.

C. 18A:72B-30 \$11,000 per year per student.

6. The board shall pay to the school \$11,000.00 per year for each eligible student attending the school pursuant to this act, provided that the school charges the student only the tuition and fees required of resident students. Any showing of a discriminatory practice against a student admitted pursuant to this act in areas such as tuition, financial aid, the quality of instruction or housing or any other area is grounds for termination of the contract by the board.

C. 18A:72B-31 Conditions.

7. a. To be certified by the chancellor as eligible for admission to the school pursuant to this act, the applicant shall (1) be a resident of New Jersey for at least 12 months; and (2) enter into a written agreement to practice medicine for at least four years following the completion of training in an area of the State designated by the chancellor as one with a shortage of physicians.

b. No student admitted to the study of medicine at a medical school within this State shall be certified by the chancellor as eligible for admission to the school pursuant to this act.

c. Each agreement shall provide (1) that if the applicant fails to complete medical school, the applicant is liable to reimburse the board for the amount paid to the school to support his education, plus interest in an amount equal to the current prevailing market rate; and (2) that if the applicant, upon licensure as a physician, fails to practice in the designated area for four years, the applicant is liable to reimburse the board for the amount paid to the school to support his education, plus interest in an amount equal to twice the current prevailing market rate. The agreement shall also contain a clause under which the applicant consents to the exercise of jurisdiction over the cause of action by the courts of New Jersey and the execution of a judgment rendered by the New Jersey courts in any jurisdiction.

d. The chancellor may waive the requirement of reimbursement upon the death or disability of the individual.

C. 18A:72B-32 Resident training program.

8. The school, at a time agreed upon with the board, shall implement a resident training program with a New Jersey hospital, if it is determined that an appropriate out-of-State training program is not available.

9. This act shall take effect immediately.

Approved December 15, 1987.

CHAPTER 313

AN ACT concerning State aid to libraries, and amending N.J.S. 18A:74-3.

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

1. N.J.S. 18A:74-3 is amended to read as follows:

State aid to libraries.

18A:74-3. State funds shall be provided annually as follows:

a. Each municipality or county that supports, in whole or in part, library service from municipal or county tax sources pursuant to chapter 33 or 54 of Title 40 of the Revised Statutes shall qualify for one of the following:

(1) \$0.50 per capita if its annual expenditure for library services is less than 1/5 mill per dollar upon the equalized valuation;

(2) \$0.75 per capita if its annual expenditure for library services is equal to or more than 1/5 mill, but less than 1/4 mill per dollar upon equalized valuation;

(3) \$1.00 per capita if its annual expenditure for library services is equal to or more than 1/4 mill, but less than 1/3 mill per dollar upon equalized valuation;

(4) \$1.25 per capita if its annual expenditure for library services is equal to or more than 1/3 mill, but less than 1/2 mill per dollar upon equalized valuation;

(5) \$1.50 per capita if its annual expenditure for library services is equal to or more than 1/2 mill per dollar upon equalized valuation;

provided, however, that payments hereunder to a municipality or county shall not be less than the amount which such municipality or county received in State library aid in the year preceding July 1, 1967, except that in no case shall payments under this section exceed one-half of the annual expenditure for library services by the municipality or the county, as the case may be.

b. For those municipalities which provide tax support for both a local library and a county library, the per capita aid provided for in subsection a. of this section shall be determined as follows: the total expenditure for library service pursuant to chapters 33 and 54 of Title 40 of the Revised Statutes shall be used to determine the scale of per capita aid. In counties in which the free county library has been reorganized pursuant to P.L. 1977, c. 300 (C. 40:33-15 et seq.), the total payments shall be made to the municipality. In those counties which have established county libraries pursuant to P.L. 1963, c. 46 (C. 40:33-5.1), the payment to the municipality and the county shall be made according to section 2 of P.L. 1983, c. 487 (C. 18A:74-3.1). In all other counties the payment to the municipality and to the county, respectively, shall be apportioned in the same ratio as each expenditure bears to the total expenditure.

2. This act shall take effect immediately, and shall apply to aid payments made in the State fiscal year 1988 and in subsequent State fiscal years.

Approved December 15, 1987.

CHAPTER 314

AN ACT providing for the city form of government, repealing parts of the statutory law and amending P.L. 1963, c. 149 and adding chapter 61 to Title 40A of the New Jersey Statutes.

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

1. TITLE 40A
CHAPTER 61
CITIES

- 40A:61-1. Incorporation; Corporate Seal; Change of Name.
- 40A:61-2. Elected Officers.
- 40A:61-3. General Powers.
- 40A:61-4. Powers of the Mayor.
- 40A:61-5. Powers of the Council.
- 40A:61-6. Organization of Council.
- 40A:61-7. Miscellaneous.
- 40A:61-8. Statutes Repealed.

40A:61-1. Incorporation; Corporate Seal; Change of Name.

a. The inhabitants of each of the several cities are hereby continued as a body politic and corporate in law as heretofore constituted and established and shall be known by the name of "the city of", in the county of" (as the case may be), and the boundaries of the several cities shall be and remain as heretofore established by law.

b. This act shall apply to any city that upon January 1, 1988 is governed by the provisions of the 1897 city law (P.L. 1897, c. 30; R.S. 40:108-1), the 1899 city law (P.L. 1899, c. 52; R.S. 40:109-3), or any charter granted by the Legislature prior to 1875.

c. Notwithstanding the provisions set out in b. above, any city with a special charter granted by the Legislature prior to 1875 shall continue to use such charter to provide the term of office for the mayor, the number of councilmen, their respective terms of office, the number of wards used, if any, and whether they serve for staggered or concurrent terms, until such city adopts the provisions as set out in this law, by referendum of the voters. The city council may, by ordinance, not less than 60 days preceding any general election, call for a referendum of the legal voters of the city on the question of whether the city should abandon its then existing pattern of or-

ganization of the council and mayor and adopt the provisions of this act.

d. Each city governed by the laws pertaining to the city form of government shall have full power to sue and be sued and have a corporate seal.

e. Any existing city may, by resolution of the council, adopt a name, as prescribed in subsection a. of this section, and the city clerk shall then file a copy of the resolution adopting the name with the county clerk, certified by the city clerk. After the filing of the certificate the city shall be known and designated by the name adopted, but no suit, proceeding or instrument shall abate or in anywise be affected by any change of corporate name.

(Source: R.S. 40:86-2, R.S. 40:142-1, and New.)

40A:61-2. Elected Officers.

a. (1) The mayor shall be elected by the voters of the city at large and serve for a term of four years and until his successor shall have qualified;

(2) Notwithstanding the provisions set out in paragraph (1) of subsection a. of this section, any city which elected its mayor for a two or three year term prior to the effective date of this act shall continue to elect its mayor for that term, until such time as the city has adopted by referendum of the voters the provisions of this act.

b. (1) The council shall consist of seven members; six shall be elected from two wards for staggered three year terms and one shall be elected at large for a four year term. The terms of the councilmen elected from wards shall be arranged, by lot if necessary, so that the terms of two councilmen, one from each ward, shall expire at the end of each year.

(2) Any city which, prior to the effective date of this act, had a council whose method of election, composition, or tenure of its membership differed in any way from the provisions of paragraph (1) of subsection b. of this section shall continue to be governed by those provisions which determined the council's method of election, composition or tenure of its membership prior to the effective date of this act, until such time as the city has adopted, by referendum of the voters, the provisions of this act.

c. No city shall elect any officers other than the mayor and council.

d. There shall be held annually, at the time provided by law for holding general elections an election for city officers.

(Source: R.S. 40:108-1.)

40A:61-3. General Powers.

Every city, governed by the city form of government, shall, subject to the provisions of this act or other general law, have full power to exercise all powers of local government in such manner as council may determine.

40A:61-4. Powers of the Mayor.

- a. The mayor shall be the chief executive officer of the city.
- b. The mayor shall have all those powers designated by general law.
- c. The mayor may participate in any deliberation of the council and, on any occasion where the council is unable to agree with respect to the adoption of an ordinance or resolution, by reason of being equally divided in a vote therein, the mayor shall have the power to cast a vote to break a tie.
- d. Every ordinance adopted by the council shall, within five days after its passage, Sundays excepted, be presented to the mayor by the city clerk. The mayor shall, within 10 days after receiving the ordinance, Sundays excepted, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the clerk together with a statement setting forth his objections thereto or any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return the ordinance to the council, as prescribed above, or unless the council, upon consideration of the ordinance following its return, shall, by a vote of two-thirds of all the members of council, resolve to override the veto.
- e. The mayor shall see to it that the laws of the State and the ordinances of the city are faithfully executed. He shall recommend to the council such measures as he may deem necessary or expedient for the welfare of the city. He shall maintain peace and good order and have the power to suppress all riots and tumultuous assemblies in the city.
- f. The mayor shall be the head of the police department and shall have the power to appoint, suspend or remove all employees of the

police department. He shall appoint the chief of police and such captains and sergeants as may be authorized by ordinance, with the advice and consent of council. He shall control and direct the police force of the city and he may appoint such special policemen as he may deem necessary for the preservation of public order. He shall enforce the laws of the State and the ordinances of the city.

g. The mayor shall supervise the official acts of the city employees and report derelictions of duty to the council.

(Source: R.S. 40:108-1(3-4), R.S. 40:108-1(15), R.S. 40:108-1(24), R.S. 40:108-1(148-9).)

40A:61-5. Powers of the Council.

a. The council shall be the legislative body of the municipality.

b. The council may, subject to general law and the provisions of this act:

(1) pass, adopt, amend and repeal any ordinance or, where permitted, any resolution for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law;

(2) control and regulate the finances of the municipality and raise money by borrowing or taxation;

(3) investigate any activity of the municipality;

(4) override a veto of the mayor by a two-thirds majority of all the members of the council.

c. The council shall appoint the subordinate officials of the municipality, except as provided elsewhere by law. In any case where the council is unable to appoint an officer or fill a vacancy to any appointed position by reason of being equally divided in a vote therein, the mayor shall have the power to cast a vote to break a tie.

(Source: R.S. 40:108-1(148-9), and New.)

40A:61-6. Organization of Council.

a. The city council shall hold an annual meeting on the first day of January at 12 o'clock noon, or during the first seven days of January in any year.

b. At its annual meeting, the council shall, by the vote of a majority of its number, elect a president of the council, who shall preside at all its meetings, and a president pro tempore who shall preside in the president's absence. They shall hold office for one year and until the next annual meeting.

c. A majority of the council shall constitute a quorum for transacting business.

d. The council may, at its annual meeting, establish for its members such committees of the council as will assist it for the ensuing year.

e. The council shall hold such other meetings, at such time and place as it may by resolution direct, but all regular meetings shall be held within the city.

f. The president shall, when necessary, call special meetings of the council. In case of his neglect or refusal, a majority of the members of the council may call such meeting at such time and place in the city as it may designate, and in all cases of special meeting a notice shall be given to all members of the council, or left at their places of residence.

g. Whenever there shall be a vacancy in the office of mayor, or whenever the mayor shall be prevented by absence from the city, sickness or other cause from attending the duties of his office, the council president pro tempore shall act as mayor and possess all the power of mayor for that period.

h. No officer, who has attained tenure by any provision of any section herein repealed by section 40A:61-8 of this act, shall be affected in any way by such repeal.

(Source: R.S. 40:108-1(12), R.S. 40:108-1(14), R.S. 40:108-1(26), and New.)

40A:61-7. Miscellaneous.

a. The municipality may, by ordinance, delegate all or a portion of the executive responsibilities of the municipality to an administrator, who shall be appointed pursuant to N.J.S. 40A:9-136.

b. The municipality may, by ordinance, adopt an administrative code. The administrative code shall restate the major provision of the city's charter and the general law supplementing the charter. The administrative code shall set forth the manner in which the council

shall perform its duties. If the council organizes itself into standing committees or if the council members serve as heads of departments, the administrative code shall specify the powers and duties of such committees or department heads and the manner in which they are appointed. The administrative code shall also set forth the titles of the principal municipal officers, how the officers are appointed, how they are organized into departments, boards, commissions, and other agencies; whom they supervise, by whom they are supervised; their powers; and what procedures should be followed to carry on the activities of the city government. The administrative code shall not grant any power or authority nor authorize any procedure, unless the power, authority or procedure is authorized implicitly by the wording of the statute or derived by reasonable implication therefrom.

c. The assets and liabilities of any board, commission or district created pursuant to the statutes repealed in section 40A:61-8 of this act shall be transferred to the municipality.

d. The city council may create such advisory councils to the municipality as it may choose, including councils for the functions absorbed by it of any heretofore existing board, commission or district.

(Source: New.)

40A:61-8. Statutes Repealed.

The following acts are hereby repealed:

P.L. 1897, c. 30, §1 to 3 (R.S. 40:108-1(1) to R.S. 40:108-1(3))
P.L. 1955, c. 176, §1 (C. 40:108-1(3.1))
P.L. 1897, c. 30, §14 to 17 (R.S. 40:108-1(14) to R.S. 40:108-1(17))
P.L. 1953, c. 304 (C. 40:108-1(17.1))
P.L. 1897, c. 30, §18 to 34 (R.S. 40:108-1(18) to R.S. 40:108-1(34))
P.L. 1897, c. 30, §38 to 39 (R.S. 40:108-1(38) to R.S. 40:108-1(39))
P.L. 1897, c. 30, §43 to 51 (R.S. 40:108-1(43) to R.S. 40:108-1(51))
P.L. 1897, c. 30, §56 (R.S. 40:108-1(56))
P.L. 1897, c. 30, §58 to 64 (R.S. 40:108-1(58) to R.S. 40:108-1(64))
P.L. 1897, c. 30, §67 to 149 (R.S. 40:108-1(67) to R.S. 40:108-1(149))
P.L. 1899, c. 52, §1 to 34 (R.S. 40:109-3(1) to R.S. 40:109-3(34))
P.L. 1899, c. 52, §38 to 39 (R.S. 40:109-3(38) to R.S. 40:109-3(39))
P.L. 1899, c. 52, §43 to 51 (R.S. 40:109-3(43) to R.S. 40:109-3(51))
P.L. 1899, c. 52, §56 (R.S. 40:109-3(56))
P.L. 1899, c. 52, §58 to 102 (R.S. 40:109-3(58) to R.S. 40:109-3(102))
P.L. 1939, c. 358 (C. 40:171-106A)

P.L. 1947, c. 332 (C. 40:171-109.1)
R.S. 40:171-188.1 to R.S. 40:171-188.2
P.L. 1947, c. 270 (C. 40:171-188.3)
R.S. 40:171-191
P.L. 1965, c. 155 (C. 40:171-217.1 to 40:171-217.3)
P.L. 1952, c. 162 (C. 40:171-221.1 to 40:171-221.2)
P.L. 1950, c. 55 (C. 40:171-234)
R.S. 40:173-1 to R.S. 40:173-3
P.L. 1953, c. 69 (C. 40:173-3.1 to C. 40:173-3.2)
R.S. 40:173-4 to R.S. 40:173-20
R.S. 40:174-148
R.S. 40:175-1
R.S. 40:176-3 to R.S. 40:176-8
P.L. 1966, c. 248 (C. 40:176-8.1)
R.S. 40:176-9 to R.S. 40:176-10
R.S. 40:176-13 to R.S. 40:176-19
P.L. 1957, c. 26 (C. 40:176-20)
R.S. 40:177-1 to R.S. 40:177-12
R.S. 40:178-1 to R.S. 40:178-30
P.L. 1947, c. 311 (C. 40:178-30.1)
R.S. 40:178-31 to R.S. 40:178-48
R.S. 40:179-1 to R.S. 40:179-125
R.S. 40:180-1 to R.S. 40:180-4
R.S. 40:181-1 to R.S. 40:181-6
R.S. 40:182-1 to R.S. 40:182-2
R.S. 40:183-1 to R.S. 40:183-50
R.S. 40:183-52 to R.S. 40:183-76
R.S. 40:184-1 to R.S. 40:184-28
R.S. 40:184-29 to R.S. 40:184-37
R.S. 40:185-1 to R.S. 40:185-3
P.L. 1954, c. 42 (C. 40:185-4 to 40:185-5)
R.S. 40:186-1 to R.S. 40:186-4
R.S. 40:188-1 to R.S. 40:188-14
R.S. 40:189-1 to R.S. 40:189-6
R.S. 40:190-1 to R.S. 40:190-12

2. Section 1 of P.L. 1963, c. 149 (C. 40:103-5(71)) is amended to read as follows:

C. 40:103-5(71) Incorporation; corporate name.

1. Any city of the State that has adopted the provisions of this act prior to the effective date of this act shall thereby be and become a body corporate, and shall have the officers, government and powers

that are herein provided for or conferred and by all applicable provisions of general law.

Upon the adoption of this act the name of the city adopting its provisions shall be, and it shall thereafter be known as "The City of" (Inserting in the said blank the territorial name by which said city has been theretofore designated or known, not including in said name such words as the mayor and city council or other like words).

3. Section 27 of P.L. 1963, c. 149 (C. 40:103-5(97)) is amended to read as follows:

C. 40:103-5(97) Establishment, merger, consolidation, abolition of commissions.

27. a. The city council by resolution may, and upon the filing with the city clerk of a written petition signed by 100 residents of the city registered to vote in the last preceding general election requesting said action, shall place on the ballot for the next general election a proposition for the establishment, merger, consolidation or abolition of a board of police commissioners, board of fire commissioners or board of water commissioners, except that if no general election is to be held within 90 days of such resolution, the council may provide for a special election to consider such a proposition. Each proposition shall relate to only one such board; provided, however, that more than one proposition may appear on the same ballot. The proposition shall be publicized and advertised and any such special election shall be conducted in the manner hereinafter provided in this act.

The proposition shall be presented in the following general form:

Yes.	"Shall there be established a Board of Water Commissioners (or as the case may be, fire commissioners or police commissioners) in lieu of regulation, supervision and operation of the water department under the direction of the Mayor and City Council?"
No.	

Yes.	“Shall the Board of Water Commissioners (or as the case may be, the fire commissioners or police commissioners) be abolished (or merged or consolidated, as the case may be) and the department be regulated, supervised and operated by direction of the Mayor and City Council (or otherwise, as the case may be)?”
No.	

If at an election held as hereinabove provided the voters by a majority of those of the legal voters of the city who vote on the proposition, assent to the establishment, merger, consolidation or abolition as the case may be of any board, an ordinance effectuating the expressed desire of the voters shall be adopted within 60 days from the date thereof.

b. Notwithstanding the provisions of subsection a. of this section, the city council may, by ordinance, abolish any of the boards created herein. Upon the adoption of an ordinance abolishing any of the boards created herein, all of the assets and liabilities of the board shall become the assets and liabilities of the municipality. The municipality may, however, create such advisory councils for its police, fire and water functions as it may deem necessary.

4. This act shall take effect on January 1, 1988.

Approved December 15, 1987.

CHAPTER 315

AN ACT concerning overweight motor vehicles and amending R.S. 39:4-75.

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

1. R.S. 39:4-75 is amended to read as follows:

Overweight vehicles on bridge; penalty.

39:4-75. a. No motor vehicle shall be driven over a bridge in this State if the gross weight of the vehicle and load is greater than the gross posted weight limit of the bridge.

b. Signs warning persons driving motor vehicles that they are approaching a bridge with a maximum gross weight limit shall be posted in a conspicuous place upon the bridge or immediately adjacent thereto and at the last safe exit or detour preceding the bridge. These signs shall indicate the maximum gross weight permitted on the bridge and shall be in accordance with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways. The signs required by this section shall be posted and maintained by the entity which has jurisdiction over the bridge.

c. A person violating this section shall be subject to a fine not exceeding \$1,000.00. In default of the payment thereof imprisonment in the county jail for a period not exceeding 10 days shall be imposed.

The owner and operator of any vehicle used in violation of this section shall be responsible to the municipal or other corporation owning or maintaining such bridge, or to the State if such bridge is maintained by the State, for any damage done to the bridge by reason of the violation.

2. This act shall take effect immediately.

Approved December 15, 1987.

CHAPTER 316

AN ACT concerning the membership of the board of trustees of the New Jersey Institute of Technology and amending N.J.S. 18A:64E-4.

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

1. N.J.S. 18A:64E-4 is amended to read as follows:

Membership of board of trustees.

18A:64E-4. There shall be a board of trustees of each of such schools, which shall consist of the Governor and the mayor or other chief executive officer of the municipality in which the school is located, as ex officio members, and 10 other citizens of the State, not more than five of whom shall be residents of the county in which such school is located, to be appointed by the Governor for terms of four years which shall commence on July 1 and expire on June

30. All trustees shall serve after the expiration of their terms and until their successors shall have been appointed and qualified. Trustees appointed by the Governor may be removed from office by him, for cause, after notice and opportunity to be heard. Any vacancy that may occur in the board of trustees shall be filled by appointment in like manner for the unexpired term only.

For the first appointments made to fill the two additional board memberships established pursuant to this act, one member shall be appointed for a three year term and one member shall be appointed for a four year term.

2. This act shall take effect immediately.

Approved December 15, 1987.

CHAPTER 317

AN ACT appropriating \$3,000,000.00 from the "Jobs, Science and Technology Bond Act of 1984" for the purpose of establishing and constructing a Northern/Central Computer Integrated Manufacturing Center at the New Jersey Institute of Technology.

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

1. There is appropriated to the Department of Higher Education from the "Jobs, Science and Technology Fund" created pursuant to the "Jobs, Science and Technology Bond Act of 1984," P.L. 1984, c. 99, the sum of \$3,000,000.00 for the purpose of planning, designing and constructing a Northern/Central Computer Integrated Manufacturing Center at the New Jersey Institute of Technology. The center will be operated in conjunction with a consortium of 12 northern and central county colleges.

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

3. This act shall take effect immediately.

Approved December 15, 1987.

CHAPTER 318

AN ACT concerning the New Jersey Sports and Exposition Authority
and amending and supplementing P.L. 1971, c. 137.

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

1. Section 5 of P.L. 1971, c. 137 (C. 5:10-5) is amended to read
as follows:

C. 5:10-5 Powers of authority.

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) and section 3 of P.L. 1987, c. 318 (C. 5:10-21.1a);

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 11A of the New Jersey 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, except that all projects constructed after the effective date of this 1987 amendatory and supplementary act shall conform to the Barrier-Free Sub-Code promulgated as part of the State Uniform Construction Code pursuant to P.L. 1975, c. 217 (C. 52:27D-119 et seq.) and further excepted 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.

2. Section 6 of P.L. 1971, c. 137 (C. 5:10-6) is amended to read as follows:

C. 5:10-6 Authority projects.

6. a. The authority, pursuant to the provisions of the act, is hereby authorized and empowered, either alone or in conjunction with others, and provided that, in the case of an arrangement with respect to any of the projects set forth in this section which shall be in conjunction with others, the authority shall have sufficient right and power to carry out the public purposes set forth in this act:

(1) To establish, develop, construct, operate, acquire, own, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project to be located in the Hackensack meadowlands upon a site not to exceed 750 acres and upon a site or sites outside of that acreage, but either immediately contiguous thereto or immediately across any public road which borders that acreage, consisting of one or more stadiums, coliseums, arenas, pavilions, stands, field houses, playing fields, recreation centers, courts, gymnasiums, clubhouses, a racetrack for the holding of horse race meetings, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of athletic contests or other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, and equip-

ment, furnishings, and all other structures and appurtenant facilities, related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof.

(2) To establish, develop, construct, acquire, lease or own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project, at a site within the State of New Jersey, consisting of a baseball stadium and other buildings, structures, facilities, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to a complex suitable for the holding of professional baseball games and other athletic contests or sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof.

(3) To establish, develop, construct, acquire, lease or own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects located within the State of New Jersey, but outside of the meadowlands complex, consisting of aquariums and the buildings, structures, facilities, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to those aquariums, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof. To provide for a project authorized under this paragraph:

(a) The authority is authorized to lease to and sublease from the State, and the State is authorized to lease from and sublease to the authority, any aquarium authorized pursuant to this paragraph. The State Treasurer is authorized to enter into a lease or other agreement with the authority. Any lease or other agreement shall expressly provide that the incurrence of any liabilities by the State under the lease or other agreement, including without limitation, the payment of any and all rentals or other amounts required to be paid by the

State thereunder, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for that purpose and upon the approval of the lease or other agreement by the presiding officers of both houses of the Legislature or by such other officers of both houses as may be provided by law. Any lease or other agreement that provides for the lease payments by the State to cover the cost of debt service on the bonded indebtedness incurred by the authority to pay for the construction of an aquarium project shall provide that the State shall assume ownership of the project upon the end of the lease period or upon the retirement of the bonded indebtedness incurred by the authority for the project, whichever occurs later, or

(b) The authority is authorized to enter into agreements with the State Treasurer providing for the acquisition and construction of an aquarium by the authority, including the land necessary for the aquarium, and the costs thereof, ownership of the aquarium and its land which shall be conveyed to the State upon completion, and the operation by the authority of the aquarium pursuant to a lease or other agreement with the State containing such terms and conditions as the State Treasurer may establish prior to the acquisition and construction by the authority of the aquarium and the disbursements of funds therefor. The State Treasurer is authorized to enter into a lease or other agreement to effectuate the provisions of this subparagraph.

(4) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project consisting of an exposition or entertainment center or hotel or office complex, including any buildings, structures, properties and appurtenances related thereto, incidental thereto, necessary therefor, or complementary thereto, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems, and equipment, furnishings and all other structures and appurtenances related to, incidental to, necessary for, or complementary to the purposes of that project. A project authorized under this paragraph may be located within, immediately contiguous to, or immediately across any public road which borders the site of any other project of the authority, except the site of a racetrack authorized by paragraph (5) of this subsection and acquired by the authority prior to 1986.

(5) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of (a) racetrack facilities located within the State of New Jersey, but outside of the meadowlands complex, (b) their contiguous properties, and (c) their auxiliary facilities, including, without limitation, pavilions, stands, field houses, clubhouses, training tracks for horses, racetracks for the holding of horse race meetings, fairgrounds, other exposition facilities, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of horse race meetings, other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, equipment, furnishings, and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of any of those projects or any facility thereof.

Notwithstanding any law to the contrary, the acquisition of any existing racetrack facility in and licensed by the State of New Jersey shall be permitted on the condition that payments equivalent to all municipal, school board and county taxes due to each entity shall be paid by the authority to the extent and in accordance with the same payment schedule as taxes would have been paid each year, as though the racetrack facility remained in private ownership. In the event the authority conveys lands or other parts of the racetrack facility to others, the authority shall receive a reduction of such payments commensurate with the amount required to be paid by the subsequent owner of the lands and improvements disposed of by the authority. In addition, the authority shall be responsible for paying all existing local franchise fees, license and parking tax fees in effect at the time of the acquisition.

(6) To establish, develop, acquire, own, operate, manage, promote and otherwise effectuate, in whole or in part, either directly or indirectly through lessees, licensees or agents, projects consisting of events, expositions, teams, team franchises or membership in professional sports leagues.

(7) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and

otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of facilities, at a site or sites within the State of New Jersey and either within or without the meadowlands complex, that are related to, incidental to, necessary for, or complementary to the accomplishment or purpose of any project of the authority authorized by this section, including any buildings, structures, properties and appurtenances related thereto, incidental thereto, necessary therefor, or complementary thereto, such projects to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems, and equipment, furnishings and all other structures and appurtenances related to, incidental to, necessary for, or complementary to the purposes of those projects.

b. The authority, pursuant to the provisions of the act, is authorized (1) to make, as part of any of the projects, capital contributions to others for transportation and other facilities, and accommodations for the public's use of any of those projects, (2) to lease any part of any of those project sites not occupied or to be occupied by the facilities of any of those projects, for purposes determined by the authority to be consistent with or related to the purposes of those projects, including, but not limited to, hotels and other accommodations for transients and other facilities related to or incidental to any of those projects, and (3) to sell or dispose of any real or personal property, including, but not limited to, such portion of the site of any of those projects not occupied or to be occupied by the facilities of any of those projects, at not less than the fair market value of the property, except in the case of sale or disposition to the State, any political subdivision of the State or any agency or instrumentality of the State or any political subdivision of the State.

c. Revenues, moneys or other funds, if any, derived from the operation or ownership of the meadowlands complex, including the conduct of horse race meetings, shall be applied, in accordance with the resolution or resolutions authorizing or relating to the issuance of bonds or notes of the authority, to the following purposes and in the following order:

(1) The costs of operation and maintenance of the meadowlands complex and reserves therefor;

(2) Principal, sinking fund installments and redemption premiums of and interest on any bonds or notes of the authority issued for the purposes of the meadowlands complex 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 meadowlands complex or incidental improvements thereto, not paid pursuant to paragraph (1) above, including reserves therefor;

(4) Payments required to be made pursuant to section 18b.;

(5) Payments authorized to be made pursuant to section 18c.;

(6) Except as provided in paragraph (2) of this subsection, payments required to be made in accordance with the resolution authorizing or relating to the issuance of bonds or notes of the authority, for the purposes of any project authorized by this act;

(7) Payments required to be made to repay any obligation incurred by the authority to the State;

(8) The balance remaining after application in accordance with the above shall be deposited in the General State Fund, provided that (a) there shall be appropriated for authorized State purposes from the amounts so deposited that amount which shall be calculated by the State Treasurer to be the debt service savings realized with respect to the refinancing of the initial project as defined in section 1 of P.L. 1973, c. 286 (C. 5:10-14.1) at the meadowlands complex, by the issuance of bonds of the authority guaranteed by the State, and (b) after such appropriation, 40% of any balance remaining from the amounts so deposited shall be appropriated to the Meadowlands Commission for any of its purposes authorized by P.L. 1968, c. 404, and any amendments or supplements thereto.

d. Revenues, moneys or other funds, if any, derived from the operation or ownership of any project other than the meadowlands complex, and other than a baseball stadium project or an office complex project located on the site of a baseball stadium shall be applied for such purposes, in such manner and subject to such conditions as shall be provided in the resolution authorizing or relating to the issuance of bonds or notes of the authority for the purposes of such project, and the balance, if any, remaining after such application may be applied, to the extent not contrary to or inconsistent with the resolution, in the following order (1) to the purposes of the meadowlands complex, unless otherwise agreed upon by the State Treasurer and the authority, (2) to the purposes of any other project of the authority; and, the balance remaining, if any, shall be deposited in the General Fund.

e. Revenues, moneys or other funds, if any, derived from the

operation, ownership, or leasing of a baseball stadium project or an office complex project located on the site of a baseball stadium shall be applied for the purposes, in the manner and subject to the conditions as shall be provided in the resolution authorizing or relating to the issuance of bonds or notes of the authority for the purposes of a baseball stadium project or an office complex project located on the site of a baseball stadium, if any, and the balance, if any, remaining after such application shall be applied, to the extent not contrary to or inconsistent with the resolution, to the following purposes and in the following order:

(1) The costs of operation and maintenance of a baseball stadium project and an office complex project located on the site of a baseball stadium and reserves therefor;

(2) Payments made to repay the bonded indebtedness incurred by the authority for the purposes of a baseball stadium project or an office complex project located on the site of a baseball stadium;

(3) Payments equivalent to an amount required to be made by the State for payments in lieu of taxes pursuant to P.L. 1977, c. 272 (C. 54:4-2:2a et seq.);

(4) The balance remaining after application in accordance with the above shall be deposited in the General Fund.

C. 5:10-21.1a Set-aside contract goals.

3. (New section) The authority is authorized and directed to establish, prior to initiating any project on or after the effective date of this 1987 amendatory and supplementary act, small business, minority business and women's business set-aside contract goals and procedures in accordance with the provisions of the "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses," P.L. 1983, c. 482 (C. 52:32-17 et seq.).

C. 5:10-6.2 Consultation with local officials.

4. (New section) Notwithstanding the provision of subsection x. of section 5 of P.L. 1971, c. 137 (C. 5:10-5) or any other law, rule or regulation to the contrary, any project authorized by paragraph (5) of subsection a. of section 6 of P.L. 1971, c. 137 (C. 5:10-6) and acquired by the authority prior to 1986 shall be developed only after consultation with local officials and giving consideration to local objections, problems and suggestions in order to minimize conflict with the master plan, zoning ordinances and other development regulations of the municipality or municipalities in which the project is situated.

5. This act shall take effect immediately.

Approved December 15, 1987.

CHAPTER 319

AN ACT to amend and supplement the "Local Authorities Fiscal Control Law," approved August 26, 1983 (P.L. 1983, c. 313).

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

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

C. 40A:5A-3 Definitions.

3. As used in this act:

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

- (1) To adopt and use a corporate seal;
- (2) To sue and be sued;
- (3) To acquire and hold real or personal property for its purposes; and
- (4) To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities, or any combination thereof;

but shall not include any public body for which federal or State fiscal controls differing from those imposed by this act have been explicitly established by law, but only to the extent of that difference.

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

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

or public improvement of an authority or payments for debt service therefor.

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

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

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

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

2. Section 6 of P.L. 1983, c. 313 (C. 40A:5A-6) is amended to read as follows:

C. 40A:5A-6 Local Finance Board review.

6. Prior to the adoption of a bond resolution by an authority, or the adoption of an ordinance or resolution of a local unit or units authorizing a service contract that is part of a project financing, the proposed project financing shall be submitted to the Local Finance Board for its review. The Local Finance Board shall, in the course of its review, give consideration to:

a. The nature, purpose, and scope of the proposed project financing;

b. The engineering and feasibility studies prepared in connection therewith;

c. The terms and provisions of the proposed service contracts, bond resolutions and, in the instance of a negotiated offering, the proposed or maximum terms and conditions of sale;

d. An estimate of the proposed or maximum schedule of debt service payments required, and the impact thereof on the budget and financial condition of the authority and of the local unit;

e. The estimate of the annual cost of operating and maintaining

the project as set forth in the engineering report or feasibility studies; and

f. The initial rate, rent, fee, or charge schedule proposed by the authority, or any other proposed method of raising the amounts required to finance the operations and payments of debt service on the obligations of the authority.

The Local Finance Board may examine the estimates, computations or calculations made in connection with the submission, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation and may take any other action which it may deem necessary to its review of the submission.

3. Section 7 of P.L. 1983, c. 313 (C. 40A:5A-7) is amended to read as follows:

C. 40A:5A-7 Hearing; findings.

7. At the time of submission of the proposed project financing to the Local Finance Board, the authority shall notify each participating local unit of that submission. The Local Finance Board shall, within 31 days of its receipt of the proposed project financing, hold a hearing at which any interested party may furnish additional information regarding the proposal. Within 10 days after the hearing, the board shall issue its findings on the proposed financing including therein its findings as to whether: (a) the project cost has been determined by reasonable and accepted methods; (b) the method proposed for the funding of the project cost, proposed or maximum terms and provisions of the financing and of a proposed service contract are not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the inhabitants of the local unit or units, which have created or have joined in the creation of the authority or which may enter into a service contract with the authority, or would not materially impair the ability of the local unit or units or the authority to pay promptly the principal of and interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof; and (c) in the case of a negotiated offering, the proposed or maximum terms and conditions of sale are, in light of current market conditions for obligations of similar quality, reasonable. The findings shall be in writing and shall be filed with the clerk or clerks of the local unit or units and with the secretary of the authority.

The times set forth in this section may be extended by mutual agreement of the authority and the Local Finance Board.

The members of the governing body of the authority shall, within 45 days of receipt of the Local Finance Board's findings and recommendations on the proposed project financing, certify, by resolution to the Local Finance Board that each member thereof has personally reviewed the findings and recommendations and has evidenced same by group affidavit signed by a majority of the full membership of the authority in the form prescribed by the Local Finance Board.

Failure to comply with this paragraph may subject the members of the authority to the penalty provisions of section 52 of P.L. 1947, c. 151 (C. 52:27BB-52).

4. Section 8 of P.L. 1983, c. 313 (C. 40A:5A-8) is amended to read as follows:

C. 40A:5A-8 Recommendations.

8. The Local Finance Board may recommend in its findings with respect to a proposed project financing:

a. That the debt service reserve fund in an amount established by the board be funded from the proceeds of the sale of the authority's bonds;

b. The incurrence of indebtedness and the issuance of obligations by the local unit or units to finance a portion of the proposed project cost. Except as otherwise provided in this act, these obligations shall be authorized and issued in the manner provided for in Title 40 of the Revised Statutes or Title 40A of the New Jersey Statutes;

c. That the local unit or units execute a service contract with the authority;

d. That the local unit or units not execute a service contract with the authority, if the Local Finance Board determines that the contract would impose an inappropriate risk on the local unit;

e. That an amount not to exceed the outstanding principal each year for the proposed financing of the authority be included in the net debt of a local unit, under N.J.S. 40A:2-1 et seq., if the local unit executes a service contract with the authority;

f. In addition to the above, any other conditions that the Local

Finance Board considers appropriate to provide sound financial support for the project financing.

5. Section 10 of P.L. 1983, c. 313 (C. 40A:5A-10) is amended to read as follows:

C. 40A:5A-10 Submission of budget.

10. a. Each authority shall submit a budget for each fiscal year to the director prior to its adoption thereof. The budget shall comply with the terms and provisions of any bond resolutions, and shall be in such form and detail as to items of revenue, expenditure and other content as shall be required by law or by rules and regulations of the Local Finance Board.

b. The Local Finance Board shall prescribe by rule or regulation the procedure for the adoption of budgets by authorities. The rules and regulations may include or be similar to any provisions of the "Local Budget Law" (N.J.S. 40A:4-1 et seq.) which the Local Finance Board shall deem to be practicable or necessary, and may further include any other provisions and requirements which the Local Finance Board shall deem appropriate or necessary. The rules and regulations shall provide for approval or disapproval of a budget within 45 days of the director's receipt thereof.

c. The Local Finance Board shall also prescribe by rule or regulation the procedures and requirements for execution of any budget after adoption, and for the administration of financial affairs of authorities. The rules and regulations may include, without limitation, any provisions of 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.), which the Local Finance Board shall deem to be practicable and necessary.

6. Section 12 of P.L. 1983, c. 313 (C. 40A:5A-12) is amended to read as follows:

C. 40A:5A-12 Funding of deficit.

12. The Local Finance Board shall have the power, in the case of a service contract between an authority and a local unit or units, to enforce, by appropriate order, the terms and provisions thereof with respect to the funding of a deficit, whether in existence or anticipated. If the Local Finance Board has reason to believe that an authority is faced with financial difficulty, it shall have the power to order an increase in rents, rates, fees or other charges of the authority, and this order shall be valid and enforceable, notwithstanding any provisions to the contrary in R.S. 48:2-1 et seq. The

Local Finance Board, before issuing this order, shall first hold a hearing consistent with section 18 of this act. The Local Finance Board also shall have authority to provide that a requirement that a local unit or units pay a deficit under a service contract be funded through the issuance of notes as provided in section 14 of this act (C. 40A:5A-14). Any order so issued shall be deemed conclusive and final, and upon receipt of this order all persons shall be estopped from contesting the order or the provisions thereof. Any authority or local unit or units affected by the order shall promptly take the action necessary to comply with this order.

7. Section 14 of P.L. 1983, c. 313 (C. 40A:5A-14) is amended to read as follows:

C. 40A:5A-14 Emergency notes.

14. If the issuance of "Authority Temporary Funding Notes" is not permitted by the terms of a bond resolution, then the local unit or units, if obligated to make payments on account of a deficiency in revenues under the terms of a service contract, may issue emergency notes pursuant to the provisions of sections 40A:4-46 through 40A:4-50 of the New Jersey Statutes to fund this payment or portions thereof. These obligations shall be general obligations of the issuer. Each note shall be authorized by resolution of the governing body and may be renewed from time to time. All notes and the renewals thereof shall mature not later than the last day of the fiscal year next succeeding the fiscal year in which these notes were issued and the emergency appropriations authorized.

A local unit shall notify the Local Finance Board in writing of its intention to issue notes pursuant to this section at least 30 days prior to the issuance, or within such lesser time period as the Local Finance Board shall permit, including therein a statement of the deficit which the proceeds of the notes are intended to fund, and a statement of the manner in which the local unit plans to either retire or refinance the notes on or before the close of the succeeding fiscal year.

8. Section 17 of P.L. 1983, c. 313 (C. 40A:5A-17) is amended to read as follows:

C. 40A:5A-17 Certification of review of audit.

17. The members of the governing body of each authority shall, within 45 days of receipt of the annual audit, certify by resolution to the Local Finance Board that each member thereof has personally reviewed the annual audit report, and specifically the sections of the audit report entitled General Comments and Recommendations, and

has evidenced same by group affidavit signed by a majority of the full membership of the authority in the form prescribed by the Local Finance Board. Failure to comply with this provision may subject the members of the authority to the penalty provisions of section 52 of P.L. 1947, c. 151 (C. 52:27BB-52).

9. Section 20 of P.L. 1983, c. 313 (C. 40A:5A-20) is amended to read as follows:

C. 40A:5A-20 Dissolution of authority.

20. Notwithstanding the provisions of any other law to the contrary, the governing body of a local unit which has established an authority shall have the power and is authorized by ordinance in the case of a municipality, and ordinance or resolution, as appropriate, in the case of a county, to dissolve the authority, except that the ordinance or resolution, as the case may be, shall be approved by the Local Finance Board prior to adoption. Any authority established by more than one municipality or county may be dissolved by the adoption of parallel ordinances or resolutions, as appropriate. The Local Finance Board shall approve the dissolution if it finds that the ordinance or resolution makes adequate provision in accordance with a bond resolution or otherwise for the payment of all creditors or obligees of the authority and that adequate provision is made for the assumption of those services provided by the authority which are necessary for the health, safety and welfare of the recipients of those services. The ordinance or resolution shall be introduced and adopted in the manner provided by law, shall take effect immediately after final adoption, and shall not be subject to referendum. A copy of the ordinance or resolution as adopted shall be filed immediately with the Local Finance Board and with the Secretary of State. In the event that an authority has obligations outstanding at the time of the taking effect of the ordinance or resolution to dissolve the authority, the local unit or units dissolving the authority are authorized to issue obligations in furtherance of the dissolution, and the obligations shall have a period of usefulness not exceeding 40 years from the date of issuance. The bonds shall be authorized by a bond ordinance to be introduced and adopted in accordance with the provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq., except for the provisions of sections 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31 of the New Jersey Statutes, and except that the bond ordinance shall take effect immediately after final adoption and shall not be subject to referendum. The bonds may be deducted from the gross debt of the local unit by action of the Local Finance Board in accordance with subsection d. of N.J.S. 40A:2-7. Bonds issued for this purpose shall be sold

under the direction and supervision of the Local Finance Board, and may be sold at either public or private sale as the board shall prescribe.

Nothing contained in this section or in this act shall limit the powers accorded under any other law to any county or municipality to dissolve any authority which it has created or of which it has joined in the creation, nor limit any general reorganization powers accorded under law to any county or municipality to alter or abolish its agencies, but the provisions of this section and this act shall be supplementary to the powers accorded under any other law.

10. Section 21 of P.L. 1983, c. 313 (C. 40A:5A-21) is amended to read as follows:

C. 40A:5A-21 Ordering of dissolution.

21. The Local Finance Board may order the dissolution of a local authority if, after holding a hearing consistent with section 18 of this act, it determines that, due to financial difficulties or mismanagement, the dissolution of an authority will be in the public interest and will serve the health, welfare, or convenience of the inhabitants of the local unit or units, and the dissolution will achieve a more efficient means for providing and financing local public facilities, except that an order dissolving an authority shall assure adequate provision in accordance with a bond resolution or otherwise for all creditors or obligees of the authority. Any order so adopted by the Local Finance Board to provide for the dissolution of an authority shall take effect only upon its approval by the Commissioner of the Department of Community Affairs, the State Treasurer and the Attorney General. Upon approval, the order shall be immediately transmitted to the authority, to the clerk of the governing body of the local unit or units, and to the Secretary of State.

11. Section 24 of P.L. 1983, c. 313 (C. 40A:5A-24) is amended to read as follows:

C. 40A:5A-24 Temporary obligations.

24. Notwithstanding any other law to the contrary, any authority, in anticipation of the issuance of bonds, may borrow money and issue temporary obligations if the bond resolution so provides. A temporary obligation shall be designated "bond anticipation note" or "project note" and shall contain a recital that it is issued in anticipation of the issuance of bonds. At any time within three years of the date of the original note issue, the authority may renew the notes, provided that a form prescribed by the director listing the terms and conditions

of the renewals is submitted to the director and the director fails to disapprove the renewal in writing within 10 days of the date of its receipt. If the renewal is disapproved by the director, the Local Finance Board shall hold a hearing as set forth in section 7 of P.L. 1983, c. 313 (C. 40A:5A-7). Any application for a renewal after three years from the date of the original issue shall be submitted and subject to the approval and conditions of the Local Finance Board.

12. Section 27 of P.L. 1983, c. 313 (C. 40A:5A-27) is amended to read as follows:

C. 40A:5A-27 Actions to be consistent with bond resolution, service contract.

27. The Local Finance Board, the director, and local units and local authorities shall not act under this act in a manner inconsistent with a bond resolution or service contract in effect at the time of the action.

13. This act shall take effect immediately.

Approved December 16, 1987.

CHAPTER 320

AN ACT to amend P.L. 1983, c. 551.

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

1. Section 3 of P.L. 1983, c. 551 (C. 54:1-70) is amended to read as follows:

C. 54:1-70 Definitions.

3. As used in this act:

a. "Base year" means the calendar year 1980 prior to any successful tax appeal.

b. "Board" means the Pinelands Municipal Property Tax Stabilization Board created pursuant to section 4 of this act.

c. "Current tax year" means the most recent year for which a report is filed pursuant to section 6 of this act.

d. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

e. "Pinelands National Reserve" means the approximately 1,000,000 acre area so designated by section 502 of the "National Parks and Recreation Act of 1978," Pub.L. 95-625 (16 U.S.C. §471i) and generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80.011A and dated September, 1978.

f. "Qualified municipality" means any municipality located, in whole or in part, in the Pinelands Area as designated in the "Pinelands Protection Act," P.L. 1979, c. 111 (C. 13:18A-1 et seq.).

g. "Tax rate" means that portion of the effective property tax rate for the current tax year which reflects local taxes to be raised for district school purposes and local municipal purposes, calculated by dividing the total of column 12, section C by net valuation on which county taxes are apportioned in column 11, both as reflected in the Abstract of Ratables for the current tax year, and expressed as a rate per \$100.00 of true value.

h. "True value of vacant land" or "true value" means the aggregate assessed value of vacant land divided by the average ratio of assessed-to-true value of real property (commonly known as the equalization rate) promulgated by the director and published in the table of equalized valuation.

i. "Valuation base" means the change in the aggregate true value of vacant land directly attributable to the implementation of the "Pinelands Protection Act," P.L. 1979, c. 111 (C. 13:18A-1 et seq.) in a qualified municipality when comparing the current tax year to the base year.

2. Section 17 of P.L. 1983, c. 551 is amended to read as follows:

17. This act shall take effect immediately and shall expire December 31, 1989.

3. This act shall take effect immediately.

Approved December 16, 1987.

CHAPTER 321

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, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P.L. 1986, c. 41).

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. 1986, c. 41, 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
45 Recreational Resource Management—State Aid

12-4875 Parks Management \$75,000

Special Purpose:

Rehabilitation and conservation of
the Dey Mansion Washington
Headquarters in Wayne,
New Jersey (\$75,000)

2. This act shall take effect immediately.

Approved December 16, 1987.

CHAPTER 322

AN ACT concerning certificate of need requirements for nursing homes and supplementing Title 26 of the Revised Statutes.

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

C. 26:2H-7.2 Certificate of need exemption.

1. Notwithstanding the provisions of section 7 of P.L. 1971, c. 136 (C. 26:2H-7) to the contrary, a nursing home which proposes to increase the total number of licensed beds contained therein by not more than 10 beds or 10% of its licensed bed capacity, whichever is less, within a period of five years is exempt from the requirement

of obtaining a certificate of need if the nursing home is in compliance with all State regulations governing its operations.

2. This act shall take effect immediately.

Approved December 16, 1987.

CHAPTER 323

AN ACT establishing the Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans.

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

1. The Legislature finds and declares that:

a. Comprehensive recent studies have established that Vietnam veterans have suffered significant emotional and psychological disabilities ranging from disabling readjustment problems to acute or chronic post-traumatic stress disorder.

b. Nationwide estimates of the number of Vietnam combat veterans who suffer from post-traumatic stress disorder range from 500,000 to 1,500,000 and these numbers reveal the growing importance of studying and treating the disorder.

c. Members of the medical community have achieved an understanding of and an ability to treat the unique psychological problems of Vietnam veterans.

d. Therapy and support services for Vietnam veterans and their families are necessary to help the veterans assimilate into and become well-adjusted members of society.

2. There is established in the Department of Human Services a commission to be known as the "Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans," consisting of nine members as follows:

a. The Commissioner of Corrections and the Commissioner of Human Services or their respective designees;

b. The Director of the Division of Veterans' Programs and Special Services in the Department of Human Services or his designee;

c. Two public members to be appointed by the Governor, who shall be of different political parties and who shall have served in the Vietnam conflict;

d. Two public members to be appointed by the President of the Senate, who shall be of different political parties and who shall have served in the Vietnam conflict; and

e. Two public members to be appointed by the Speaker of the General Assembly, who shall be of different political parties and who shall have served in the Vietnam conflict.

Vacancies in the membership shall be filled in the same manner as the original appointments were made. 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 commission shall organize as soon as may be practicable after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

4. It shall be the duty of the commission to study the incidence of post-traumatic stress disorder in Vietnam veterans in New Jersey and to develop programs to provide support services including, but not limited to, psychiatric care for Vietnam veterans and their families.

5. The commission is 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 which it may require and which may be available to it for these purposes, and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses necessary to perform its duties, within the limits of funds appropriated or otherwise made available to it for these purposes.

6. The commission shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

7. The commission may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature. The commission shall report annually to the Governor and Legislature on its activities and recommendations.

8. The Legislature, from time to time, shall provide for expenses

of the commission by inclusion in any general or supplemental appropriation act.

9. This act shall take effect immediately and shall expire at the end of the third year following enactment.

Approved December 16, 1987.

CHAPTER 324

AN ACT concerning claims against public entities and public employees, amending and supplementing Title 59 of the New Jersey Statutes and supplementing P.L. 1979, c. 172 (C. 18A:11-3 et seq.).

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

C. 59:9-3.1 Percentage of liability.

1. (New section) Notwithstanding the provisions of P.L. 1952, c. 335 (C. 2A:53A-1 et seq.), P.L. 1973, c. 146 (C. 2A:15-5.1 et seq.) or any other law to the contrary, in any case where a public entity or public employee acting within the scope of his employment is determined to be a tortfeasor in any cause of action along with one or more other tortfeasors, the public entity or public employee shall be liable for no more than that percentage share of the damages which is equal to the percentage of the negligence attributable to that public entity or public employee and only to the extent authorized by N.J.S. 59:9-2 and N.J.S. 59:9-4.

2. N.J.S. 59:9-3 is amended to read as follows:

Contribution by a public entity or public employee with a joint tortfeasor.

59:9-3. Contribution by a public entity or public employee with a joint tortfeasor. Notwithstanding any other law, in any case where a public entity or public employee acting within the scope of his employment is determined to be a joint tortfeasor the public entity or public employee shall be required to contribute to a joint tortfeasor only to the extent of the recovery provided for under this act.

C. 18A:11-6 Liability of association, conference, employee.

3. (New section) Notwithstanding the provisions of P.L. 1952, c. 335 (C. 2A:53A-1 et seq.), P.L. 1973, c. 146 (C. 2A:15-5.1 et seq.) or any other law to the contrary, in any case where a voluntary

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association as provided by P.L. 1979, c. 172 (C. 18A:11-3 et seq.), any athletic conference operating under the jurisdiction of that association or any employee of the association or conference acting within the scope of his employment is determined to be a tortfeasor in any cause of action along with one or more other tortfeasors, the association, conference or employee shall be liable for no more than that percentage share of the damages which is equal to the percentage of the negligence attributable to that association, conference or employee. In any case where the voluntary association, conference or employee is determined to be a joint tortfeasor, the voluntary association, conference or employee shall be required to contribute to a joint tortfeasor only to the extent of the recovery provided for under this section.

4. This act shall take effect immediately and be applicable to all acts or omissions occurring on or after the effective date.

Approved December 18, 1987.

CHAPTER 325

AN ACT concerning joint and several liability and amending P.L. 1973, c. 146.

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

1. Section 2 of P.L. 1973, c. 146 (C. 2A:15-5.2) is amended to read as follows:

C. 2A:15-5.2 Findings of fact.

2. In all negligence actions in which the question of liability is in dispute, the trier of fact shall make the following as findings of fact:

a. The amount of economic and noneconomic damages which would be recoverable by the injured party regardless of any consideration of negligence, that is, the full value of the injured party's damages;

b. The extent, in the form of a percentage, of each party's negligence. The percentage of negligence of each party shall be based on 100% and the total of all percentages of negligence of all the parties to a suit shall be 100%.

c. The judge shall mold the judgment from the findings of fact made by the trier of fact.

2. Section 3 of P.L. 1973, c. 146 (C. 2A:15-5.3) is amended to read as follows:

C. 2A:15-5.3 Party responsibility.

3. Except as provided in subsection d. of this section, the party so recovering may recover as follows:

a. The full amount of the damages from any party determined by the trier of fact to be 60% or more responsible for the total damages.

b. The full amount of economic damages plus the percentage of noneconomic damages directly attributable to that party's negligence from any party determined by the trier of fact to be more than 20% but less than 60% responsible for the total damages.

c. Only that percentage of the damages directly attributable to that party's negligence from any party determined by the trier of fact to be 20% or less responsible for the total damages.

d. With regard to environmental tort actions, the party so recovering may recover the full amount of the damage award from any party determined to be liable.

e. Any party who is compelled to pay more than his percentage share may seek contribution from the other joint tortfeasors.

f. As used in this section:

(1) "Environmental tort action" means a civil action seeking damages for personal injuries or death where the cause of the damages is the negligent manufacture, use, disposal, handling, storage or treatment of hazardous or toxic substances.

(2) "Noneconomic loss" means subjective, nonmonetary losses, including, but not limited to, pain and suffering, inconvenience, mental anguish, emotional distress, loss of society and companionship, loss of consortium, and destruction of the parent-child relationship.

C. 2A:15-5.4 Exceptions.

3. Nothing in this act shall be construed to apply to any action brought by the Department of Environmental Protection, or any other governmental agency or entity pursuant to the environmental laws of this State, including, but not limited to, the "Solid Waste

Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.); the "Water Pollution Control Act," P.L. 1977, c. 74 (C. 58:10A-1 et seq.); the "Spill Compensation and Control Act," P.L. 1976, c. 141 (C. 58:10-23.11 et seq.); the "Major Hazardous Waste Facilities Siting Act," P.L. 1981, c. 279 (C. 13:1E-49 et seq.); the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L. 1981, c. 306 (C. 13:1E-100 et seq.); the "Environmental Cleanup Responsibility Act," P.L. 1983, c. 330 (C. 13:1K-6 et seq.); the "Air Pollution Control Act (1954)," P.L. 1954, c. 212 (C. 26:2C-1 et seq.); the "Toxic Catastrophe Prevention Act," P.L. 1985, c. 403 (C. 13:1K-19 et seq.); the "Pesticide Control Act of 1971," P.L. 1971, c. 176 (C. 13:1F-1 et seq.); and the "Radiation Protection Act," P.L. 1958, c. 116 (C. 26:2D-1 et seq.).

4. This act shall take effect immediately and shall apply to all causes of action arising on or after that date.

Approved December 18, 1987.

CHAPTER 326

AN ACT concerning the award of damages in personal injury and wrongful death actions in certain cases and supplementing Title 2A of the New Jersey Statutes.

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

C. 2A:15-97 Deduction of duplicate benefits.

1. In any civil action brought for personal injury or death, except actions brought pursuant to the provisions of P.L. 1972, c. 70 (C. 39:6A-1 et seq.), if a plaintiff receives or is entitled to receive benefits for the injuries allegedly incurred from any other source other than a joint tortfeasor, the benefits, other than workers' compensation benefits or the proceeds from a life insurance policy, shall be disclosed to the court and the amount thereof which duplicates any benefit contained in the award shall be deducted from any award recovered by the plaintiff, less any premium paid to an insurer directly by the plaintiff or by any member of the plaintiff's family on behalf of the plaintiff for the policy period during which the benefits are payable. Any party to the action shall be permitted to introduce evidence regarding any of the matters described in this act.

2. This act shall take effect immediately and shall apply to all causes of actions arising on or after that date.

Approved December 18, 1987.

CHAPTER 327

AN ACT concerning victims of sexual offenses and amending P.L. 1981, c. 256.

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

1. Section 1 of P.L. 1981, c. 256 (C. 52:4B-22) is amended to read as follows:

C. 52:4B-22 Information booklets, pamphlets.

1. a. Every State, county, and municipal police department and hospital or other place of emergency medical care shall have available and shall post in a public place information booklets, pamphlets or other pertinent written information, to be supplied by the Violent Crimes Compensation Board, relating to the availability of crime victims' compensation including all necessary application blanks required to be filed with the board.

b. Included in the information supplied by the Violent Crimes Compensation Board shall be information for victims of sexual offenses. This information shall contain the location of rape crisis centers in all geographical areas throughout the State and shall instruct victims of sexual offenses that if a rape crisis center is not available in a victim's immediate geographical area, the victim may contact the appropriate county victim-witness coordinator appointed by the Chief of the Office of Victim-Witness Advocacy established pursuant to P.L. 1985, c. 404 (C. 52:4B-39 et seq.). Unless the victim requires immediate medical attention, this information shall be personally conveyed to the victim of a sexual offense by a representative of the hospital or place of emergency care before a medical examination of the victim is conducted, or by a representative of the police department before the victim's statement is taken, to afford the victim the opportunity to arrange to have assistance from the rape crisis center or county victim-witness coordinator during these procedures. Hospitals shall be held harmless from suits emanating from a hospital's carrying out the obligation to convey information to victims of sexual offenses.

"Rape crisis center" means an office, institution or center offering assistance to victims of sexual offenses through crisis intervention, medical and legal information and follow-up counseling.

c. Every police department shall, upon the filing of a report of a violent crime, make available to any victim information concerning crime victims' compensation.

2. This act shall take effect immediately.

Approved December 22, 1987.

CHAPTER 328

AN ACT concerning the qualifications of members of boards of education, amending N.J.S. 18A:12-1, N.J.S. 18A:12-2.1, N.J.S. 18A:12-3 and N.J.S. 18A:14-10 and supplementing Title 18A of the New Jersey Statutes.

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

1. N.J.S. 18A:12-1 is amended to read as follows:

Qualifications.

18A:12-1. Each member of any board of education shall be a citizen and resident of the district, or of such constituent district of a consolidated or regional district as may be required by law, and shall have been such for at least one year immediately preceding his appointment or election, he shall be able to read and write, shall be registered to vote in the district, and, notwithstanding the provisions of N.J.S. 2C:51-1 or any other law to the contrary, he is not disqualified as a voter pursuant to R.S. 19:4-1.

2. N.J.S. 18A:12-2.1 is amended to read as follows:

Oaths.

18A:12-2.1. Each member of a board of education shall, before entering upon the duties of his office, take and subscribe:

(1) An oath that he possesses the qualifications of membership prescribed by law, including a specific declaration that he is not disqualified as a voter pursuant to R.S. 19:4-1, and that he will faithfully discharge the duties of this office, and also

(2) The oath prescribed by R.S. 41:1-3 of the Revised Statutes.

In the case of a Type I school district the oath shall be filed with the clerk of the municipality and in all other cases it shall be filed with the secretary of the board of education of the district.

3. N.J.S. 18A:12-3 is amended to read as follows:

Cessation of membership.

18A:12-3. Whenever a member of a local or regional board of education shall cease to be a bona fide resident of the district, or of any constituent district of a consolidated or regional district which he represents, or shall become mayor or a member of the governing body of a municipality, his membership in the board shall immediately cease; and, any member who fails to attend three consecutive meetings of the board without good cause may be removed by it. Whenever a member of a county special service school district or a member of a county vocational school district shall cease to be a bona fide resident of the district, or shall hold office as a member of the governing body of a county, his membership on the board shall immediately cease.

Notwithstanding the provisions of N.J.S. 2C:51-1 or any other law to the contrary, whenever a member of a board of education is disqualified as a voter pursuant to R.S. 19:4-1, or is convicted of false swearing as provided in section 5 of P.L. 1987, c. 328 (C. 18A:12-2.2), his membership on the board shall immediately cease.

4. N.J.S. 18A:14-10 is amended to read as follows:

Contents of petition.

18A:14-10. Contents of petition. Each nominating petition shall be addressed to the secretary of the board of education of the district and therein shall be set forth:

- a. A statement that the signers of the petition are all qualified voters of the school district or, in the case of a regional school district, qualified voters of the constituent district which the candidate shall represent on the board of education of the regional district;
- b. The name, residence and post office address of the person endorsed and the office for which he is endorsed;
- c. That the signers of the petition endorse the candidate named in the petition for said office and request that his name be printed upon the official ballot to be used at the ensuing election; and
- d. That the person so endorsed is legally qualified to be elected to the office.

Accompanying the nominating petition and to be filed therewith, there shall be a certificate signed by the person endorsed in the petition, stating that:

- a. He is qualified to be elected to the office for which he is nominated, including a specific affirmation that he is not disqualified as a voter pursuant to R.S. 19:4-1;
- b. He consents to stand as a candidate for election; and
- c. If elected, he agrees to accept and qualify into said office.

C. 18A:12-2.2 False swearing by member.

5. (New section) Any member of a board of education who falsely affirms or declares that he is not disqualified as a voter pursuant to R.S. 19:4-1 is, in addition to immediate disqualification for office, guilty of a crime of false swearing and is subject to the penalty provided pursuant to N.J.S. 2C:28-2.

C. 18A:14-10.1 False swearing by candidate.

6. (New section) Any candidate for membership on a board of education who falsely affirms or declares that he is not disqualified as a voter pursuant to R.S. 19:14-1 is, in addition to immediate disqualification for office, guilty of a crime of false swearing and is subject to the penalty provided pursuant to N.J.S. 2C:28-2.

7. This act shall take effect immediately.

Approved December 22, 1987.

CHAPTER 329

AN ACT providing for the arbitration of certain tort claims.

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

C. 2A:23A-20 Arbitration of personal injury actions.

1. a. Any civil action brought for personal injury, except for actions brought pursuant to the provisions of P.L. 1972, c. 70 (C. 39:6A-1 et seq.), shall be submitted, except as hereinafter provided, to arbitration by the assignment judge of the court in which the action is filed, if the court determines that the amount in controversy is \$20,000.00 or less, exclusive of costs.

b. Notwithstanding that the amount in controversy is in excess of \$20,000.00, the court may refer the matter to arbitration, if all of the parties to the action consent in writing to arbitration and the court determines that the controversy does not involve novel legal or unduly complex factual issues.

c. The provisions of this section shall not apply to any controversy on which an arbitration decision was rendered prior to the filing of the action. The provisions of this section shall apply to any cause of action, subject to this section, filed prior to the operative date of this act, if a pretrial conference has not been concluded thereon.

C. 2A:23A-21 Tolling of statute of limitations.

2. Submission of a controversy to arbitration shall toll the statute of limitations for filing an action until the filing of the arbitration decision in accordance with section 6 of this act.

C. 2A:23A-22 Selection of arbitrators.

3. a. The number or selection of arbitrators may be stipulated by mutual consent of all of the parties to the action, which stipulation shall be made in writing prior to or at the time notice is given that the controversy is to be submitted to arbitration. The assignment judge shall approve the arbitrators agreed to by the parties, whether or not the designated arbitrators satisfy the requirements of subsection b. of this section, upon a finding that the designees are qualified and their serving would not prejudice the interest of any of the parties.

b. If the parties fail to stipulate the number or names of the arbitrators, the arbitrators shall be selected, in accordance with rules of court adopted by the Supreme Court of New Jersey, from a list of arbitrators compiled by the assignment judge, to be comprised of retired judges and qualified attorneys in this State with at least seven years' negligence experience and recommended by the county or State bar association.

C. 2A:23A-23 Compensation; attorney, witness fees.

4. Compensation for arbitrators shall be set by the rules adopted by the Supreme Court of New Jersey. The Supreme Court may also establish a schedule of fees for attorneys representing the parties to the dispute and for witnesses in arbitration proceedings subject to the provisions of N.J.S. 59:9-5. Attorney's fees may exceed these limits upon application made to the assignment judge in accordance with the Rules Governing the Courts of the State of New Jersey for

the purpose of determining a reasonable fee in light of all the circumstances.

The Supreme Court may adopt rules governing offers of judgment by the claimant or defendant prior to the start of arbitration, including the assessment of the costs of arbitration proceedings and attorney's fees, where an offer is made but refused by the other party to the controversy.

C. 2A:23A-24 Issuance of subpoenas.

5. The arbitrators may, at their initiative or at the request of any party to the arbitrators, issue subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence. Subpoenas shall be served and shall be enforceable in the manner provided by law.

C. 2A:23A-25 Arbitration award exceeding \$20,000.

6. Notwithstanding that a controversy was submitted pursuant to subsection a. of section 1 of this act, the arbitration award may exceed \$20,000.00. The arbitration decision shall be in writing, and shall set forth the issues in controversy, and the arbitrators' findings and conclusions of law and fact.

C. 2A:23A-26 Confirmation of decision.

7. The court shall, upon motion of any of the parties, confirm the arbitration decision, and the action of the court shall have the same effect and be enforceable as a judgment in any other action; unless one of the parties petitions the court within 30 days of the filing of the arbitration decision for a trial de novo or for modification or vacation of the arbitration decision for any of the reasons set forth in chapter 24 of Title 2A of the New Jersey Statutes, or an error of law or factual inconsistencies in the arbitration findings.

C. 2A:23A-27 Payment of fees.

8. Except in the case of an arbitration decision vacated by the court or offers of judgment made pursuant to court rules, the party petitioning the court for a trial de novo shall pay to the court the fees of the arbitrators.

C. 2A:23A-28 Trial de novo.

9. No statements, admissions or testimony made at the arbitration proceedings, nor the arbitration decision, as confirmed or modified by the court, shall be used or referred to at the trial de novo by any of the parties, except that the court may consider any of those matters in determining the amount of any reduction in assessments made pursuant to section 10 of this act.

C. 2A:23A-29 Assessment of costs.

10. The party having filed for a trial de novo shall be assessed court costs and other reasonable costs of the other party to the judicial proceeding, including attorney's fees, investigation expenses and expenses for expert or other testimony or evidence, which amount shall be, if the party assessed the costs is the one to whom the award is made, offset against any damages awarded to that party by the court, and only to that extent; except that if the judgment is more favorable to the party having filed for a trial de novo, the court may reduce or eliminate the amount of the assessment in accordance with the extent to which the decision of the court is more favorable to that party than the arbitration decision, and as best serves the interest of justice. The court may waive an assessment of costs required by this section upon a finding that the imposition of costs would create a substantial economic hardship as not to be in the interest of justice.

C. 2A:23A-30 Rules of court; report.

11. The Supreme Court of New Jersey shall adopt rules of court appropriate or necessary to effectuate the purpose of this act. The Administrative Office of the Courts shall not later than March 1 of each year file with the Governor and Legislature a report on the impact of the implementation of this act on insurance settlement practices and costs, and on court calendars and workload.

12. This act shall take effect immediately and shall apply to all causes of action arising on or after that date.

Approved December 22, 1987.

CHAPTER 330

AN ACT eliminating the responsibility of the Department of Insurance to audit or examine certain State administered funds, amending P.L. 1944, c. 255, P.L. 1963, c. 123 and P.L. 1965, c. 89, and repealing N.J.S. 18A:66-28 and section 52 of P.L. 1954, c. 84 (C. 43:15A-52).

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

1. Section 13 of P.L. 1944, c. 255 (C. 43:16A-13) is amended to read as follows:

C. 43:16A-13 Police-fire retirement system trustees.

13. (1) Subject to the provisions of P.L. 1955, c. 70 (C. 52:18A-95 et seq.), the general responsibility for the proper operation of the retirement system is hereby vested in a board of trustees.

(2) The board shall consist of nine trustees as follows:

(a) Four members to be appointed by the Governor, who shall serve at the pleasure of the Governor and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor an active or retired member of any police or fire department thereof.

(b) The State Treasurer or the Deputy State Treasurer, when designated for that purpose by the State Treasurer.

(c) Two policemen and two firemen who shall be members of the system and who shall be elected by the members of the system for a term of four years according to such rules and regulations as the board of trustees shall adopt to govern such election.

(3) Each trustee shall, after his appointment or election, take an oath of office that, so far as it devolves upon him he will diligently and honestly fulfill his duties as a board member, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member making it, and certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(4) If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

(5) The trustees shall serve without compensation, but they shall be reimbursed for all necessary expenses that they may incur through service on the board.

(6) Each trustee shall be entitled to one vote in the board. Five trustees must be present at any meeting of said board for the transaction of its business.

(7) Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to

permit the most economical and uniform administration of all such retirement systems.

(8) The board of trustees shall elect from its membership a chairman. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board. The administration of the program shall be performed by the personnel of the Division of Pensions.

(9) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

(10) The Attorney General of the State of New Jersey shall be the legal advisor of the board of trustees.

(11) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

(12) The actuary of the system shall be designated by the State Treasurer after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. He shall be the technical advisor of the board of trustees on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

(13) At least once in each three-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system and, with the advice of the actuary, the board of trustees shall adopt for the retirement system such mortality, service and

other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this act.

(14) (Deleted by amendment.)

(15) On the basis of such tables recommended by the actuary as the board of trustees shall adopt and regular interest, the actuary shall make an annual valuation of the assets and liability of the funds of the system created by this act.

(16) (Deleted by amendment, P.L. 1987, c. 330.)

(17) Each policeman or fireman member of the board of trustees shall be entitled to time off from his duty, with pay, during the periods of his attendance upon regular or special meetings of the board of trustees, and such time off shall include reasonable travel time required in connection therewith.

2. Section 5 of P.L. 1963, c. 123 (C. 52:18A-111) is amended to read as follows:

C. 52:18A-111 Supplemental Annuity Collective Trust.

5. In order to facilitate the administration of the supplemental annuity programs of the State administered retirement systems, the State administered retirement systems shall vest the general responsibility for control and management of their supplemental annuity programs in the Supplemental Annuity Collective Trust under the direction of a council consisting of the State Treasurer, who shall be the chairman, the Commissioner of the Department of Insurance, and the State Budget Director. In the event of a vacancy in one of the above enumerated offices, the official assuming the responsibility of that office shall act as a member of the council.

The Director of the Division of Pensions shall be the secretary of the council. The administration of the programs shall be performed by the personnel of the Division of Pensions and the costs of administration shall be borne by the State.

The Attorney General shall be the legal advisor of the council.

The council shall retain the services of an actuary. The actuary shall make an actuarial review of the Supplemental Annuity Collective Trust at least once in every three-year period and at such other times as the council, in its discretion, shall deem advisable.

The council shall promulgate such rules and regulations, not inconsistent with the provisions of this act, as it shall deem necessary for the effective operation of the trust.

The council shall publish annually a report of its operations and the financial condition of the Supplemental Annuity Collective Trust. It shall also give each participant who has not commenced to receive annuity payments an annual statement of his account.

The council shall not commingle the assets of the Variable Division and the assets of the Fixed Division.

The records of the Supplemental Annuity Collective Trust shall be subject to audit by the State Auditor.

3. Section 30 of P.L. 1965, c. 89 (C. 53:5A-30) is amended to read as follows:

C. 53:5A-30 State Police retirement system trustees.

30. a. Subject to the provisions of P.L. 1955, c. 70 (C. 52:18A-95 et seq.), the general responsibility for the proper operation of the retirement system is hereby vested in the board of trustees.

b. The board shall consist of five trustees as follows:

(1) Two active members of the system who shall be appointed by the Superintendent of State Police, who shall serve at the pleasure of the superintendent and until their successors are appointed and one of whom shall be a commissioned officer of the Division of State Police.

(2) Two members to be appointed by the Governor, who shall serve at the pleasure of the Governor and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor active or retired members of the system.

(3) The State Treasurer ex officio. The Deputy State Treasurer, when designated for that purpose by the State Treasurer, may sit as a member of the board of trustees and when so sitting shall have all the powers and shall perform all the duties vested by this act in the State Treasurer.

c. Each trustee shall, after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly fulfill his duties as a board member, that he will not knowingly violate or permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member taking it, and certified by the official before whom it is taken, and immediately filed in the office of the Secretary of State.

d. If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

e. The trustees shall serve without compensation, but they shall be reimbursed by the State for all necessary expenses that they may incur through service on the board. No employee member shall suffer loss of salary through the serving on the board.

f. Except as otherwise herein provided, no member of the board of trustees shall have any direct interest in the gains or profits of any investments of the retirement system; nor shall any member of the board of trustees directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any member of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

g. Each trustee shall be entitled to one vote in the board. A majority vote of all trustees shall be necessary for any decision by the trustees at any meeting of said board.

h. Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems.

i. The actuary of the system shall be designated by the State Treasurer after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. He shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection herewith.

j. The Attorney General shall be the legal adviser of the retirement system.

k. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board.

l. The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall

publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

m. The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians. The medical board shall pass on all medical examinations required under the provisions of this act, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

n. (Deleted by amendment, P.L. 1987, c. 330.)

Repealer.

4. N.J.S. 18A:66-28 and section 52 of P.L. 1954, c. 84 (C. 43:15A-52) are repealed.

5. This act shall take effect immediately.

Approved December 22, 1987.

CHAPTER 331

AN ACT establishing programs for the diagnosis and treatment of Sudden Infant Death Syndrome, supplementing Title 26 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. 26:5D-1 Short title.

1. This act shall be known and may be cited as the "SIDS Assistance Act."

C. 26:5D-2 Findings, declarations.

2. The Legislature finds and declares that:

a. Sudden Infant Death Syndrome, the sudden and unexpected death of apparently healthy babies, commonly known as "SIDS" or "Crib Death," is the major cause of death of infants between the ages of one month and one year and is responsible for the deaths of approximately 7,000 infants in the United States each year.

b. Although the cause of SIDS is not known, there is evidence that it may be caused by an infectious agent, hypoglycemia, a neuroendocrine defect, or poor socioeconomic conditions. SIDS has also been associated with apnea, the temporary stoppage of breathing; however, there are no data firmly linking SIDS to apnea, and preliminary data suggest that the number of infants who have had a history of apneic episodes may account for not more than 5% of SIDS fatalities.

c. Because of the nature of SIDS and the inability to discover the cause of death, parents of victims of SIDS often experience trauma and shock and have a need for counseling and other support services.

d. Research regarding the detection, treatment, cure or prevention of SIDS has not been afforded the attention given to other areas of medicine, and many health care professionals are not familiar with the symptoms, diagnosis or treatment of SIDS; and

e. Therefore, it is imperative that a program be established for identifying and treating infants who are potential victims of SIDS, referring potential SIDS victims and their families to sources of treatment and counseling, referring families whose children have been victims of SIDS to counseling and other support services and providing an educational program to health care professionals to heighten their awareness in detecting potential SIDS victims and in preventing SIDS.

C. 26:5D-3 Referral service; hotline.

3. The Commissioner of the Department of Health shall establish a program to educate the public and health care professionals about SIDS. The program shall include a referral service for the public and health care professionals on SIDS related services and a 24-hour telephone hotline to provide needed information and referrals. The commissioner shall also encourage the development of local support programs to provide early detection, counseling, and referrals for infants who may be at risk of SIDS.

C. 26:5D-4 SIDS Resource Center.

4. The Commissioner of the Department of Health shall establish a "SIDS Resource Center" within a State medical school. The SIDS Resource Center shall, in coordination with the Department of Health, serve as a technical advisory center and may offer diagnostic procedures, medical treatment and counseling, as well as any other services that may be necessary to assist potential SIDS victims and their families.

5. There is appropriated from the General Fund to the Department of Health \$150,000.00 to carry out the provisions of this act.

6. This act shall take effect immediately.

Approved December 22, 1987.

CHAPTER 332

AN ACT concerning the licensing of certain persons as audiologists and speech language pathologists and amending and supplementing P.L. 1983, c. 420.

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

1. Section 10 of P.L. 1983, c. 420 (C. 45:3B-10) is amended to read as follows:

C. 45:3B-10 Licensure.

10. In lieu of the examination given to other applicants for licensure the director, in consultation with the committee, may issue a license to an individual who presents bona fide proof to the director that he was actively engaged in the practice of audiology or speech-language pathology, or both, in this State for three of the last five years immediately preceding the enactment of this act, and has a master's degree or its equivalent in speech-language pathology or audiology, and meets the currently recognized national professional standards in speech-language pathology or audiology. The application shall be made to the director within one year of the enactment of this act. Prior to the licensure of an individual under this section, the director shall require that the applicant demonstrate satisfactory knowledge of current developments and procedures in his area of specialization.

2. Section 14 of P.L. 1983, c. 420 (C. 45:3B-14) is amended to read as follows:

C. 45:3B-14 Temporary license.

14. a. The director, in consultation with the committee, may issue a temporary license to any person who has recently become a resident of this State, who has applied for licensing as an audiologist or speech-language pathologist, or both, as the case may be, and who has been licensed by the state of his former residence. The temporary

license shall be effective for a period not to exceed one year, and shall not be renewed.

b. The director, in consultation with the committee, shall issue a temporary license to any person who has applied for licensure as an audiologist or speech-language pathologist, or both, as the case may be; who has satisfactorily met the licensing requirements of subsections a. and b. of section 8 of P.L. 1983, c. 420 (C. 45:3B-8); and who is participating in a clinical internship required for licensure pursuant to subsection c. of section 8 of P.L. 1983, c. 420 (C. 45:3B-8). The temporary license shall be effective only during the clinical internship period not to exceed 18 months, and shall not be renewed.

3. (New section) Any person who, on January 5, 1984, was eligible for licensure as an audiologist or speech-language pathologist, or both, pursuant to section 10 of P.L. 1983, c. 420 (C. 45:3B-10) as amended by this act, may apply to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety for the issuance of a license on or before the 180th day following the effective date of this act.

4. (New section) The director shall publish within 60 days of the effective date of this act a notice containing the language of section 3 of this act and a brief description of the eligibility requirements for licensure without examination pursuant to section 10 of P.L. 1983, c. 420 (C. 45:3B-10).

The notice shall contain the specific date of the 180th day following the effective date of this act. The notice shall be published at least three times during the 60-day period in one or more newspapers circulating in each county in the State.

5. This act shall take effect immediately.

Approved December 22, 1987.

CHAPTER 333

AN ACT creating a mechanism for the siting of a regional low-level radioactive waste disposal facility, creating a low-level radioactive waste disposal facility siting board and a low-level radioactive waste advisory committee, supplementing Title 32 of the Revised Statutes, and making an appropriation.

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

C. 13:1E-177 Short title.

1. This act shall be known and may be cited as the "Regional Low-Level Radioactive Waste Disposal Facility Siting Act."

C. 13:1E-178 Findings, declarations.

2. The Legislature finds that Congress, pursuant to the "Low-Level Radioactive Waste Policy Act," Pub.L. 96-573 (42 U.S.C. §2021b et seq.) and the "Low-Level Radioactive Waste Policy Act Amendments of 1985," Pub.L. 99-240 (42 U.S.C. §2021d et seq.), has declared that, after January 1, 1986, each state shall be responsible for providing capacity for the proper disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government or federal research and development activities; that because the management and disposal of radioactive waste would be handled most safely and efficiently on a regional basis, New Jersey, pursuant to P.L. 1983, c. 329 (C. 32:31-1 et al.), has entered as a party state into the Northeast Interstate Low-Level Radioactive Waste Management Compact; and that among the obligations of each party state to that compact is the duty to establish a mechanism for the timely siting of a disposal facility within its jurisdiction in the event that it is designated as host state for the regional facility.

The Legislature further finds that the improper management and disposal of low-level radioactive waste pose a threat to the public health and safety and to the State's natural resources and environment; that a disposal facility appropriately sited and technologically suitable will insure that these wastes are effectively isolated from human contact for the duration of their hazardous lives; and that the location, design, construction, and operation of such a facility is a public purpose in the best interests of all citizens of this State.

The Legislature further finds and declares that the most effective, most efficient, and most equitable way to accomplish this purpose is to establish an independent board of experts in the relevant disciplines charged with siting the regional low-level radioactive waste disposal facility in accordance with a procedure which offers the maximum opportunities for the informed participation of the general public, and of the citizens of the local communities prospectively impacted, and with supervising the design, construction, and operation of the facility, all as hereinafter provided.

C. 13:1E-179 Definitions.**3. As used in this act:**

a. "Board" means the New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board created pursuant to section 4 of this act;

b. "Commission" means the Northeast Interstate Low-Level Radioactive Waste Commission created pursuant to Article IV of P.L. 1983, c. 329 (C. 32:31-5);

c. "Committee" means the New Jersey Radioactive Waste Advisory Committee created pursuant to section 6 of this act;

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

e. "Disposal" means the isolation of low-level radioactive waste from the biosphere for the hazardous life of the waste;

f. "Environmental and health impact statement" means a statement of likely environmental and public health impacts resulting from the construction and operation of the regional low-level radioactive waste disposal facility, and includes an inventory of existing environmental conditions at the site, a project description, an assessment of the impact of the project on the environment and on public health, a listing of unavoidable environmental and public health impacts, and steps to be taken to minimize environmental and public health impacts during construction and operation;

g. "Host municipality" means the municipality in which a regional low-level radioactive waste disposal facility is to be located;

h. "Facility" means the land, buildings, equipment, and improvements used or developed for the treatment, storage, or disposal of the low-level radioactive wastes generated within the party states to the Northeast Low-Level Radioactive Waste Management Compact;

i. "Low-level radioactive waste" means radioactive waste that (1) is neither high-level waste nor spent fuel, nor by-product material as defined in the "Atomic Energy Act of 1954," 68 Stat. 921 (42 U.S.C. §2011 et seq.); and (2) is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in the "Low-Level Radioactive Waste Policy Act," Pub.L. 96-573 (42 U.S.C. §2021b et seq.) and the "Low-

Level Radioactive Waste Policy Act Amendments of 1985," Pub.L. 99-240 (42 U.S.C. §2021d et seq.) or federal research and development activities;

j. "Owner or operator" means, in addition to the usual meanings thereof, every owner of record of any interest in land whereon the facility is located;

k. "Plan" means the Low-Level Radioactive Waste Disposal Plan adopted by the board pursuant to section 10 of this act;

l. "Region" means the geographical area encompassed by the combined jurisdictions of the party states to the Northeast Interstate Low-Level Radioactive Waste Management Compact; and

m. "Site" means both the physical location with a buffer zone and the technology employed to isolate low-level radioactive waste at that location.

C. 13:1E-180 Low-Level Radioactive Waste Disposal Facility Siting Board.

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 New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is allocated within the Department of Environmental Protection, but, notwithstanding that allocation, the board shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof. The board shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this or any other act shall be deemed and held to be an essential governmental function of the State.

b. The board shall comprise 11 members, except as otherwise provided in subsection c. of this section, as follows: the Commissioners of the Departments of Environmental Protection and Health, or their designees, who shall serve ex officio; and nine public members, of which three members shall be from industries which generate low-level radioactive waste, one of whom shall represent public utilities, one of whom shall represent hospitals or other health care facilities, and one of whom shall represent the pharmaceutical or nuclear medical research industries; three members with training and expertise in disciplines relevant to the management of radioactive waste, at least one of whom shall be a phy-

sician specializing in nuclear medicine; and three members who shall represent recognized environmental organizations or other public interest groups. Each of the public members shall be appointed by the Governor, with the advice and consent of the Senate, for a term of three years, provided that of the members of the board first appointed by the Governor, three shall serve for terms of one year, three for terms of two years, and three for terms of three years, so that one member from each of the three categories of membership shall be appointed to serve for a term of each duration. Each of these members shall hold office for the term of the appointment and until a 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. Whenever the board considers the recommendations of an administrative law judge pursuant to subsection a. of section 11 hereof, two additional voting members shall be appointed to the board. One of the additional members shall be appointed by the governing body of the county wherein the proposed regional low-level radioactive waste disposal facility is to be located, and the other shall be appointed by the governing body of the proposed host municipality. In the event that the proposed facility is to be located in more than one county or municipality, each of the affected county and municipal governing bodies shall appoint an additional member of the board, except that all of the county appointments shall share a single vote, and all of the municipal appointments shall share a single vote.

d. Each member may be removed from office by the appointing authority, for cause and after opportunity for a hearing, and may be suspended by the appointing authority pending the completion of the hearing. Any member who shall miss three consecutive meetings of the board without being excused for good cause by the chairman shall be deemed to have vacated his office.

e. Each member of the board shall, before entering upon the duties, take and subscribe an oath to perform the duties of office faithfully, impartially, and justly to the best of the person's ability. A record of these oaths shall be filed in the office of the Secretary of State.

f. The members of the board shall elect from among their number a chairman, who shall schedule, convene, and chair board meetings, and a vice-chairman, who shall act as chairman in his absence. The

members of the board shall appoint an executive director, who shall be the chief administrative officer and secretary of the board. The executive officer shall serve at the pleasure of the board, and shall be a person qualified by training and experience to perform the duties of his office.

g. The powers of the board shall be vested in the members thereof in office, and a majority of the total authorized membership of the board shall be required to exercise its powers at any meeting thereof.

h. Each member of the board shall execute a bond to be conditioned upon the faithful performance of duties in a form and amount prescribed by the State Treasurer. The bonds shall be filed in the office of the Secretary of State. At all times thereafter, the board members shall maintain the bonds in full force. The board shall pay the cost of the bonds.

i. The members of the board shall serve without compensation, but the board may, within the limits of funds appropriated or otherwise made available therefor, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

j. The members of the board may request, and the Attorney General shall provide, legal services as these services are provided to the department.

k. A true copy of the minutes of every meeting of the board shall be prepared and forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at the meeting by the board shall have effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during the 10-day period, the Governor shall approve the minutes, in which case the action shall become effective upon that approval. If, in the 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the board at that meeting, the action shall be of no effect.

C. 13:1E-181 Powers, duties.

5. The board shall have the following powers and duties:

- a. To adopt bylaws for the regulation of its affairs and the conduct of its business;
- b. To adopt and have a seal and to alter the same at its pleasure;
- c. To enter into contracts upon such terms and conditions as the

board shall determine to be reasonable, and to pay or compromise any claim arising therefrom;

d. To call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, commission or agency as may be required and made available for these purposes;

e. To contract for and to accept any gifts or grants or loans of funds or financial or other aid in any form from the United States of America or any agency, instrumentality or political subdivision thereof, and to comply, subject to the provisions of the act, with terms and conditions thereof;

f. To employ an executive director, consulting engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the board to carry out the purposes of this act, and to fix and pay their compensation from funds available to the board therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

g. To hold public meetings or hearings within this State on any matter related to the siting of a regional low-level radioactive waste facility;

h. To administer the regional low-level radioactive waste disposal facility siting process established in this act, and to instruct all participants in the process as to methods and actions designed to provide for an effective and efficient implementation of the process;

i. To take actions necessary or appropriate to maximize the source and volume reduction of low-level radioactive waste generated within the region;

j. To seek and review proposals for the construction, maintenance, operation, closure, and post-closure observation and maintenance of the regional low-level radioactive waste disposal facility on the established site, and make recommendations as appropriate;

k. To do and perform any acts and things authorized by this act under, through, or by means of its own officers, agents, and employees, or by contract with any person;

l. To provide such information as necessary to both the department and the commission; and

m. To use such information as may be developed by the commission or its contract agents.

In addition, the board and its representatives, agents, or employees shall have the right of entry to perform any and all actions necessary and contingent to its site selection duties.

C. 13:1E-182 Radioactive Waste Advisory Committee.

6. a. There is established in the department a New Jersey Radioactive Waste Advisory Committee, which will consist of 13 members appointed by the Governor with the advice and consent of the Senate. Each of these members shall be appointed for a term of three years, provided that of the members of the committee first appointed by the Governor four shall serve for terms of one year, five shall serve for terms of two years, and four shall serve for terms of three years. Of these members, three shall be appointed from persons recommended by recognized environmental or public interest organizations; two from persons recommended by recognized organizations of municipal elected and appointed officials; two from persons recommended by recognized organizations of county elected and appointed officials; one from persons recommended by recognized community organizations; three from persons recommended by recognized organizations of industries which generate low-level radioactive waste; and two from the general public.

In the event that no recommendations for a particular category of membership are made to the Governor within 60 days of the effective date of this act in the case of the initial appointments, or within 60 days of the date of the expiration of the term of office of any member or the occurrence of any vacancy in the case of subsequent appointments, the Governor shall appoint as a member or members for that category of membership a person or persons whom he believes shall be representative thereof.

b. A majority of the membership of the committee shall constitute a quorum for the transaction of committee business. Action may be taken and motions and resolutions adopted by the committee by the affirmative vote of a majority of the full membership of the committee.

c. The committee shall meet regularly as it may determine, and shall also meet at the call of the chairman of the committee or any member of the commission.

d. The committee shall appoint a chairman from among its members and such other officers as may be necessary. The committee may, within the limits of any funds appropriated or otherwise made

available to it for this purpose, appoint such staff or hire such experts as it may require.

e. Members of the committee shall serve without compensation, but the committee may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

C. 13:1E-183 Duties.

7. The committee shall:

a. Advise the board concerning the regional management plan developed by the Northeast Interstate Low-Level Radioactive Waste Commission pursuant to Article V of P.L. 1983, c. 329 (C. 32:31-6) and the designation of a site or sites for a regional low-level radioactive waste disposal facility;

b. Advise the board concerning the preparation and adoption criteria for the siting of a low-level radioactive waste disposal facility and make recommendations for action on application for the construction of a low-level radioactive waste disposal facility; and,

c. Review all matters submitted to it by the board or the department and state its position on the matter within 30 days of the submission thereof.

C. 13:1E-184 Additional functions.

8. The committee may:

a. Review any matter relating to the siting, construction, operation or closure of a regional low-level radioactive waste disposal facility and to transmit such recommendations to the board as it may deem appropriate;

b. Hold public meetings or hearings within this State on any matter related to the siting, construction, operation or closure of a regional low-level radioactive waste disposal facility; and

c. Call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, commission or agency as may be required and made available for such purposes.

C. 13:1E-185 Criteria, guidelines for facility siting.

9. a. The board shall, within nine months of the effective date of this act and after consultation with the committee, and review of the regional management plan developed by the Northeast Interstate

Low-Level Radioactive Waste Commission pursuant to Article V of P.L. 1983, c. 329 (C. 32:31-6), develop and adopt criteria and guidelines for the siting of a regional low-level radioactive waste disposal facility. The criteria shall be designed to prevent any significant adverse public health, environmental or economic impact resulting from the location of a regional low-level radioactive waste disposal facility and the transportation of low-level radioactive waste thereto. These criteria shall specifically preclude the disposal of any low-level radioactive wastes in any facility which is not designed, constructed, and engineered so as to insure the effective isolation of these wastes from the biosphere for their hazardous lives. The criteria shall also specifically prohibit the siting of a facility in the Pinelands National Reserve as designated pursuant to section 502 of the "National Parks and Recreation Act of 1978" (16 U.S.C. §471i). In order to preserve the public health and safety and the integrity of the environment, and to insure the isolation of low-level radioactive waste from human contact, the board, in developing siting criteria and guidelines, shall consider the potential effects of the various disposal technologies on the demography, soil characteristics, geology, hydrology, and natural resources of all the areas of the State, taking into account the volume, types, and hazardous life of the wastes prospectively to be disposed at the regional low-level radioactive waste disposal facility. These criteria shall preclude, to the greatest extent practicable and feasible, but within the limits of federal law, the disposal of low-level radioactive waste by means of shallow land burial.

b. The provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), or any other law to the contrary notwithstanding, the board shall develop and adopt criteria for the siting of a regional low-level radioactive waste facility as follows:

(1) Within three months of the effective date of this act, the board shall prepare and make available to all interested persons preliminary criteria for the siting of a regional low-level radioactive waste facility;

(2) Within six months of the effective date of this act, the board shall conduct public meetings on preliminary criteria in the several geographic areas of this State. Notice of these meetings shall be published, at least 30 days in advance thereof, in at least two newspapers circulating in the specific geographic area where the meeting will be held. Notice of these meetings shall also be transmitted, at least 30 days in advance thereof, to every municipal clerk and en-

vironmental commission within the specified geographic area where the meeting will be held;

(3) Within seven months of the effective date of this act, the board shall consider and evaluate any comments made at the public meetings, make such revisions to the preliminary criteria as it deems necessary or appropriate, and schedule a public hearing on the revised criteria. Notice of this hearing shall be published, at least 30 days in advance thereof, in at least four newspapers of general circulation in this State;

(4) Within eight months of the effective date of this act, the board shall conduct the public hearing on the revised criteria; and

(5) Within nine months of the effective date of this act, the board shall consider and evaluate any comments made at the public hearing, make such changes to the revised criteria as it deems necessary or appropriate, and adopt final criteria for the siting of a regional low-level radioactive waste disposal facility.

C. 13:1E-186 Low-Level Radioactive Waste Disposal Plan.

10. a. The board shall, within 15 months of the effective date of this act and after consultation with the committee and review of the regional management plan developed by the Northeast Interstate Low-Level Radioactive Waste Commission pursuant to Article V of P.L. 1983, c. 329 (C. 32:31-6), develop and adopt a Low-Level Radioactive Waste Disposal Plan. The plan shall be revised and updated every three years, or more frequently when, in the discretion of the board, changes in the amount or type of low-level radioactive waste generated in the region, or technological advances in the means of managing, storing, transporting, or disposing of low-level radioactive waste, so require.

b. The plan shall include, but need not be limited to:

(1) A current inventory of all low-level radioactive waste generators within the region;

(2) A current inventory of the sources, volumes, types, and hazardous life of the low-level radioactive wastes generated within the region;

(3) Projections of the volumes, types, and hazardous life of the low-level radioactive wastes which are expected to be generated in the region during the next 20 years;

(4) A technical analysis of all the known methods of disposal of

low-level radioactive waste, which shall evaluate their respective capacities to effectively isolate low-level radioactive wastes from the biosphere; and

(5) An analysis of transportation routes and transportation costs from low-level radioactive waste generators in the region to the various areas of the State;

(6) An analysis of the waste stream generated by the party states with respect to the commercial viability of a site located in this State.

c. The provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), or any other law to the contrary notwithstanding, the board shall prepare and adopt the plan as follows:

(1) Within 11 months of the effective date of this act, the board shall prepare and make available to all interested persons a proposed plan;

(2) Within 14 months of the effective date of this act, the board shall conduct public hearings in the several geographic areas of the State on the proposed plan. Notice of these hearings shall be published at least 30 days in advance thereof in at least two newspapers circulating in the specific geographic area where the hearing will be held; and

(3) Within 15 months of the effective date of this act, the board shall consider any comments made at the public hearings, make such revisions to the proposed plan as it deems necessary or appropriate, and adopt the plan.

d. Within 90 days of the effective date of this act, the board shall, in consultation with the department and the committee, establish a public information program which addresses:

(1) The nature and dimension of the low-level radioactive waste disposal problem;

(2) The need for the proper and expeditious siting of a regional low-level radioactive waste disposal facility;

(3) The respective responsibilities of the board, department and committee pursuant to this act; and

(4) The necessity and opportunities for public participation as provided herein.

e. In preparing or revising the plan pursuant to this section, the board may direct that the department provide or prepare any data or other information which the board deems necessary for the performance of its responsibilities pursuant to this act.

C. 13:1E-187 Designation of site.

11. a. The board shall, in conformity with the siting criteria adopted pursuant to section 9 of this act and the Low-Level Radioactive Waste Disposal Plan adopted pursuant to section 10 of this act, and after consultation with the committee, designate a site or sites for the regional low-level radioactive waste disposal facility.

The provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) or any other law to the contrary notwithstanding, this site or sites shall be proposed and designated in the following manner:

(1) Within 18 months of the effective date of this act, or of the adoption of the siting criteria and the plan, whichever is sooner, the board shall propose a site or sites for the regional low-level radioactive waste disposal facility, transmit written notice thereof, by certified mail, to the governing body, board of health, planning board and environmental commission of the affected municipality, and the governing body, planning board, and county health department of the affected county, and provide the governing body of the municipality with a grant, pursuant to the provisions of subsection d. of this section, to conduct a site suitability study of the proposed site;

(2) Within three months of the receipt of a grant from the board, the governing body of the affected municipality shall complete and transmit to the board a site suitability study on the proposed site;

(3) Within 30 days of the receipt by the board municipal site suitability study, an adjudicatory hearing concerning the proposed site shall be conducted by an administrative law judge. The affected municipality shall be a party in interest to the hearing, and shall have the right to present testimony and cross-examine witnesses. Intervention in this hearing by any other person shall be as provided by the "Administrative Procedure Act";

(4) Within 30 days of the close of the hearing, the administrative law judge shall transmit his recommendations for action on the proposed site to the board. The judge shall not favorably recommend the proposed site as suitable for the regional low-level radioactive waste disposal facility unless he finds clear and convincing evidence that locating the facility at the proposed site will not constitute a

threat to the public health, safety and welfare of the affected municipality; and,

(5) Within 30 days of the receipt thereof, the board shall affirm, conditionally affirm or reject the recommendations of the administrative law judge and adopt or withdraw the proposed site. The action by the commission shall be based upon the potential for significant impairment of the environment or the public health, shall be considered to be final agency action thereon for the purposes of the "Administrative Procedure Act," and shall be subject only to judicial review as provided in the Rules of Court.

b. The board may propose alternate or additional sites for the regional low-level radioactive waste disposal facility in the event the initially proposed site is determined to be unsuitable.

c. The board may, upon its own motion or at the request of a governing body of any affected municipality, repeal or withdraw the proposed site if, in the discretion of the board, such action is consistent with the purposes and provisions of this act.

d. The board shall make grants to a municipality for conducting a site suitability study of a proposed site for the regional low-level radioactive waste disposal facility, pursuant to this section, from any State, federal commission, or other funds which may be appropriated or otherwise made available to it for this purpose.

e. In the event that any site proposed by the board pursuant to this section is located in more than one municipality, the notices required herein shall be transmitted to each affected municipality or agency thereof, the grant awarded for the municipal site suitability study shall be made to all of the affected municipalities, the site suitability study shall be conducted jointly by all of the affected municipalities, and all of the affected municipalities shall be considered a single party for the purposes of the adjudicatory hearing held pursuant to this section.

C. 13:1E-188 Joint and several strict liability.

12. The owner or operator of the regional low-level radioactive waste disposal facility shall be jointly and severally strictly liable, without regard to fault, for:

a. All direct and indirect damages, no matter by whom sustained, proximately resulting from the operations or closure of the facility, including any personal injuries or medical expenses incurred as a result thereof; and

b. The cleanup and removal of any discharge of radioactivity in violation of any state or federal law or policy.

C. 13:1E-189 Disclosure statement; dispute resolution.

13. a. A person proposing to own or operate a regional low-level radioactive waste disposal facility shall submit a disclosure statement pursuant to, and shall be otherwise subject to, within the limits of federal law, the provisions of, P.L. 1983, c. 392 (C. 13:1E-126 et al.).

b. The owner or operator of the regional low-level radioactive waste disposal facility who has received a license pursuant to federal law shall enter into negotiations with the host municipality concerning such issues as the two parties have identified as potential conflicts. These negotiations shall be mediated by a representative of the Office of Dispute Resolution in the Department of the Public Advocate in a manner consistent with the practices and procedures of the Office of Dispute Resolution.

c. The owner or operator of the regional low-level radioactive waste disposal facility who has received a license pursuant to federal law may construct and operate that facility without regard to any local zoning ordinance, and the use shall not be required to be submitted to or approved by any county or municipal governing body, zoning, or planning board or other agency, except as otherwise expressly provided herein. The board, department, county, or municipality shall conduct inspections during construction.

C. 13:1E-190 Regular inspections; violations.

14. a. The department and the local board of health or county health department, as the case may be, shall conduct regular inspections of the regional low-level radioactive waste disposal facility in order to determine compliance with the provisions of the engineering design for the facility and of all relevant federal or State laws, and any rules and regulations adopted pursuant thereto. These inspections shall be conducted by the appropriate health or code enforcement official, as the case may be, shall commence with the commencement of construction of such facility, and shall continue for 30 years following the closure thereof. Prior to the commencement of operation of the facility, the department in conjunction with the Department of Health, shall provide for the training of local or county health personnel to conduct the inspections required pursuant to this section.

b. In the event that any inspection of the facility discloses a

violation of any law or rule and regulation adopted pursuant thereto, the department and the local board of health or the county health department, as the case may be, may institute an action in a court of competent jurisdiction for injunctive relief to restrain the violation and for such other relief as the court shall deem proper. The court may proceed in such action in a summary manner. Neither the institution of such action nor any of the proceedings therein shall relieve any party to the proceedings from other fines or penalties prescribed by law for the violation. One-half of any penalty imposed upon the owner or operator of the facility as the result of a violation disclosed in any municipal or county inspection thereof shall, the provisions of any law to the contrary notwithstanding, be awarded to the local board of health or county health department as the case may be, which conducted the inspection. If more than one agency is involved, this sum will be apportioned equally among the agencies involved.

c. The department, in consultation with the board shall conduct or cause to be conducted a training program for municipal or county officials performing inspections of the facility pursuant to this section.

C. 13:1E-191 Reward for information.

15. a. Any person who supplies any information which proximately results in the arrest and conviction of any other person for the illegal treatment, storage or disposal of low-level radioactive waste shall be awarded one-half of any penalty collected as a result thereof.

b. The Attorney General 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 necessary to implement this section.

C. 13:1E-192 Evidence of financial responsibility; post-closure maintenance.

16. a. The board shall require the owner or operator of the regional low-level radioactive waste disposal facility to provide evidence of financial responsibility for the duration of the operation of the facility and establish a mechanism to defray closing costs and post-closure monitoring expenses for such period of time as may be deemed necessary by the board, whether by escrow accounts, performance bonds or otherwise.

b. The department shall ensure post-closure observation and maintenance for a period of five years.

c. After the post-closure period, and after a finding of satisfactory disposal site closure, the license of the facility will transfer to the State or to the federal government.

C. 13:1E-193 Taxation as real property.

17. a. The regional low-level radioactive waste disposal facility shall, for the purposes of local property taxation, be assessed and taxed in the same manner as other real property.

In the event that the facility is constructed or operated on a site which is exempt from local property taxation by virtue of the ownership thereof by any public agency, the owner or operator of the facility shall, the provisions of any law, rule, regulation, ordinance, resolution or contract to the contrary notwithstanding, annually pay to the affected municipality a sum equal to the amount which would annually be due if the land on which the facility is located and any improvements thereto were assessed and taxed as real property subject to local property taxation. These payments shall be made to the chief fiscal officer of the affected municipality by December 31 of each year.

b. Subsequent to the effective date of this act, the owner or operator of the facility shall, on or before January 25 of each year, file with the chief fiscal officer of the municipality wherein the facility is located a statement, verified by oath, showing the gross receipts from all charges imposed during the preceding calendar year upon any person for the disposal of low-level radioactive waste at the facility, and shall at the same time pay to the chief fiscal officer a sum equal to 5% of those receipts.

c. All moneys received by any municipality pursuant to this section shall be appropriated and utilized for the following purposes:

(1) Extra police or fire costs, whether for salaries, equipment, or administrative expenses, which were necessitated by the operations of the facility;

(2) Any local inspection program costs incurred by the local board of health or the county health department, as the case may be, provided that the program is performed pursuant to the provisions of this act and any rule or regulation promulgated pursuant thereto;

(3) Road construction or repair costs necessitated by the transportation of low-level radioactive waste through the municipality to the facility; and

(4) Other expenses directly related to the impact of the facility on the municipality.

Any appropriation made for an expenditure covered under this subsection shall, for the purposes of P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered as an expenditure mandated by State law.

d. The municipality in which the facility is located may petition the board for approval to collect an amount in excess of the amount prescribed in subsection b. of this section. The board, after affording the affected owner or operator with notice of this petition and an opportunity to be heard thereon, may grant the petition, but only if the board is satisfied that the grant is warranted by the expenses imposed upon the municipality as a result of the operation of the facility.

e. The board may, upon the petition of the affected owner or operator or upon its own motion, direct that the amount to be paid pursuant to subsection b. of this section be reduced to a lower percentage if, after affording the affected municipality notice of the petition or board intent to decrease the amount and an opportunity to be heard thereon, the board finds that the lower amount is sufficient to cover the expenses imposed upon the municipality as a result of the operation of the facility.

f. The municipality in which the facility is located shall not be required to be the host municipality site for a solid waste facility approved under P.L. 1970, c. 39 (C. 13:1E-1 et seq.), or a major hazardous waste facility sited pursuant to P.L. 1981, c. 279 (C. 13:1E-49 et seq.), and no municipality which is the host municipality site for a facility approved or sited pursuant to the aforementioned acts shall be required to be the host municipality site for a regional low-level radioactive waste disposal facility sited pursuant to the provisions of this act.

g. The board may offer financial or other incentives to the host municipality as may be made available to it by the operator or the State.

h. Any board action taken pursuant to subsection d. or e. of this section shall be considered to be the final agency action thereon for the purposes of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court.

C. 13:1E-194 Power of eminent domain.

18. a. In addition to the other powers conferred by this act, the board may acquire, in the name of the State, by purchase or otherwise, in accordance with the terms and conditions and in the manner it deems proper, by the exercise of the power of eminent domain as hereinafter provided, and to lease, sell, or otherwise convey, any land and other property which it may determine is reasonably necessary for the regional low-level radioactive waste disposal facility or for the relocation or reconstruction of any highway by the board and any and all rights, title, interest or option in that land and other property, including public lands, highways or parkways, owned by or in which the State or any county, municipality, 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 for the purposes of this act.

b. Notwithstanding its land acquisition and conveyance powers provided in subsection a. of this section, the board shall not implement those powers with respect to any land or interest therein unless:

(1) The site on which the facility would be constructed has been adopted by the board pursuant to the provisions of this act;

(2) The prospective owner or operator has sought to obtain the land or any interest therein from the owner thereof in good faith bargaining; and

(3) The prospective owner or operator has already obtained the approval of the board for the license for the facility to be constructed on the land.

c. Upon the exercise of the power of eminent domain by the board, 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.), and the board may file with the clerk of the Superior Court a declaration of taking in the manner provided in that act.

C. 13:1E-195 Conflict of interest.

19. a. No member, officer, employee, or agent of the board shall take any official action on any matter in which he has a direct or indirect financial interest.

b. Any board action taken or approval granted in violation of this section is voidable.

c. Any person who knowingly violates any provision of this section shall forfeit his office or employment and is guilty of a crime of the fourth degree.

C. 13:1E-196 Annual audit.

20. The State Auditor shall conduct an annual audit of the board's activities pursuant to the provisions of chapter 24 of Title 52 of the Revised Statutes.

C. 13:1E-197 Annual report.

21. On or before March 31 in each year the board shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. Each report shall set forth a complete operating and financial statement covering its operations during the year.

C. 13:1E-198 Rules, regulations.

22. The board and the department shall, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt such rules and regulations as may be necessary for the performance of their respective responsibilities pursuant to this act.

23. There is appropriated to the Department of Environmental Protection from the General Fund the sum of \$500,000.00, to be utilized as follows:

a. \$200,000.00 to the board for the preparation and adoption of the plan, for the proposal and adoption of a regional low-level radioactive disposal facility site, and to otherwise implement this act;

b. \$50,000.00 to the board for grants to municipalities for the review of proposed facility sites pursuant to section 11 of this act;

c. \$25,000.00 to the department to conduct training programs for local officials pursuant to section 14 of this act;

d. \$25,000.00 to the committee for the performance of its responsibilities pursuant to section 7 hereof; and

e. \$200,000.00 to the department for staff necessary for the implementation and administration of this act.

24. This act shall take effect immediately.

Approved December 22, 1987.

CHAPTER 334

AN ACT concerning international trade, establishing an Office for Sister State Relations in the Division of International Trade in the Department of Commerce and Economic Development, supplementing P.L. 1981, c. 122 (C. 52:27H-1 et seq.) and making an appropriation.

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

C. 52:27H-22.4 Findings, declarations.

1. The Legislature finds and declares that:

a. The Sister Cities program both in concept and practice has been a valuable program for encouraging cultural, educational and trade relationships between cities in the United States and cities in other countries;

b. This same concept has been applied to a sister state-province relationship between New Jersey and Zhejiang Province in the Peoples Republic of China since May 11, 1981, and has resulted in a number of successful cultural, educational and economic exchanges; and

c. As a means of furthering cultural, educational and trade relationships between this State and similar jurisdictions in other countries, it is important to build upon existing knowledge concerning sister city and sister state relationships and to aggressively seek to establish other sister state relationships.

C. 52:27H-22.5 Office for Sister State Relations.

2. a. There is established in the Division of International Trade in the Department of Commerce and Economic Development an Office for Sister State Relations. This office shall have as its primary function, the development and implementation of a "Sister States Initiatives Program" to focus the attention and efforts of this State on particular jurisdictions in other countries with which to establish a sister state relationship.

b. The Director of the Division of International Trade may appoint and employ any persons, including accountants, attorneys, persons who are fluent in foreign languages, financial advisors, and any other individuals with expertise in foreign trade or marketing, whom the office may require within the limits of available appropriations.

c. This office shall work closely with the New Jersey Department of State and the U.S. Department of Commerce in determining jurisdictions in other countries with which to establish a sister state relationship.

d. This office shall work closely with the New Jersey Department of Education to develop programs to stimulate the interest of students in the schools of the State in the culture, history, art and languages of other jurisdictions with whom a sister state relationship is formed.

e. This office shall work closely with the New Jersey Department of Higher Education to develop programs or encourage existing programs, as the case may be, for undergraduate, graduate and professional students focusing on international relations generally, and international trade specifically.

f. This office shall work closely with the Dean of Cook College and the Director of the New Jersey Agricultural Experiment Station to develop ways in which Cook College and the agricultural experiment station can actively participate in New Jersey's sister state relationships.

g. This office shall actively encourage businesses in New Jersey to develop their export capabilities specifically in relation to those jurisdictions which are granted a sister state designation and it shall do so by carrying out those duties already given to the Division of International Trade pursuant to section 23 of P.L. 1981, c. 122 (C. 52:27H-22) and section 2 of P.L. 1985, c. 160 (C. 52:27H-22.2).

C. 52:27H-22.6 Annual reports.

3. The office shall annually report on its activities and progress by submitting a written report to the Director of the Division of International Trade and the Commissioner of Commerce and Economic Development and through them to the Governor's Commission on International Development, to the presiding officer of each house of the State Legislature and to the appropriate committees of the Legislature.

4. There is appropriated \$150,000.00 from the General Fund to the Department of Commerce and Economic Development to accomplish the purpose of this act.

5. This act shall take effect immediately.

Approved December 23, 1987.

CHAPTER 335

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

CAPITAL CONSTRUCTION
50 DEPARTMENT OF HIGHER EDUCATION
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services
5600 Rutgers, The State University

Capital Project:

Replace Victor Building (\$4,350,000)

2. This act shall take effect immediately but shall remain inoperative until the enactment into law of the annual appropriations act for the fiscal year ending June 30, 1988, P.L. 1987, c. 154.

Approved December 23, 1987.

CHAPTER 336

AN ACT prohibiting the sale of certain boilers, pressure vessels and refrigeration systems and amending R.S. 34:7-23 and R.S. 34:7-26.

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

1. R.S. 34:7-23 is amended to read as follows:

Conformance to standards.

34:7-23. No steam boiler, pressure vessel or refrigeration system shall be sold, installed or used in this State unless it conforms to such rules, regulations and standards as are from time to time

adopted by the Board of Boiler, Pressure Vessel and Refrigeration Rules and approval by the commissioner under authority of R.S. 34:1-47.

2. R.S. 34:7-26 is amended to read as follows:

Penalties.

34:7-26. Any owner, lessee, seller or operator of any steam or hot water boiler or similar equipment specified in R.S. 34:7-14, pressure vessel or refrigeration system who shall sell, use, cause or allow to be used such steam or hot water boiler or similar equipment specified in R.S. 34:7-14, pressure vessel or refrigeration system in violation of any provision of this article shall be liable to a penalty of not less than \$500.00 nor more than \$1,000.00 for each first offense and not less than \$500.00 nor more than \$2,500.00 for each subsequent offense, to be collected by a civil action or, in the commissioner's discretion, to be imposed by the commissioner as a compromise. All civil actions shall be brought by the Department of Labor as plaintiff, and may be brought in the Special Civil Part, Law Division of the Superior Court of the county, or municipal court of the municipality, wherein such violation shall occur.

3. This act shall take effect immediately.

Approved December 23, 1987.

CHAPTER 337

AN ACT concerning the Passaic Valley sewerage district and the Passaic Valley sewerage commissioners, and amending R.S. 58:14-4.

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

1. R.S. 58:14-4 is amended to read as follows:

\$10,000 salary.

58:14-4. Each of the commissioners shall, before entering upon the duties of his office, take and subscribe an oath that he will faithfully and impartially execute and perform the duties imposed upon him by law, and shall cause the same to be filed in the office of the Secretary of State.

The commissioners shall each receive for service under this chapter an annual salary of \$10,000.00, payable in equal monthly installments, and they shall receive no other compensation than that herein provided.

2. This act shall take effect immediately.

Approved December 23, 1987.

CHAPTER 338

AN ACT concerning the Board of State Canvassers and amending R.S. 19:6-27, R.S. 19:21-1, R.S. 19:21-2, R.S. 19:21-4 and R.S. 19:21-5.

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

1. R.S. 19:6-27 is amended to read as follows:

Board of State Canvassers.

19:6-27. The Board of State Canvassers shall consist of five persons, including the chairman, who shall be the Governor of this State. In the absence of the Governor, the Secretary of State shall serve as the chairman of the board and in the absence of the Secretary of State, the Assistant Secretary of State shall serve as the chairman of the board. The remaining members of the board shall consist of four members of the Legislature appointed by the Governor. No more than two of the legislators shall be from the same political party. When the Governor is serving as chairman of the board, the Secretary of State shall be the clerk of the board. When the Secretary of State is serving as chairman of the board, the Assistant Secretary of State shall be the clerk of the board. When the Assistant Secretary of State is serving as chairman of the board, that person shall designate another person to be clerk of the board and shall administer to that person the oath prescribed in R.S. 19:21-4. The board shall meet at such times and places as the chairman thereof shall determine pursuant to the provisions of R.S. 19:21-1.

2. R.S. 19:21-1 is amended to read as follows:

Meeting times.

19:21-1. a. The Board of State Canvassers shall meet at Trenton as soon as practicable but no later than the 28th day after the day

of election, for the purpose of canvassing and estimating the votes cast for each person for whom any vote or votes shall have been cast for one or more members of the United States senate or of the house of representatives, or for electors of president and vice president, or for governor, or for members of the Legislature, and upon each public question voted upon by the voters of the entire state or political division thereof greater than a county and of determining and declaring the person or persons who shall, by the greatest number of votes, have been duly elected to such office or offices, and the result of the vote cast upon any public question setting forth that it was approved or rejected.

b. For the purpose of canvassing and estimating the votes cast for each person for whom any vote or votes shall have been cast in any special election, the board shall meet in Trenton as soon as practicable but no later than the 28th day after the day of the special election.

3. R.S. 19:21-2 is amended to read as follows:

Substitute members.

19:21-2. If a number of the members of the Legislature who shall have been summoned as members of the board sufficient to constitute it shall not attend the meeting thereof, the chairman shall summon as members of the board as many fit persons who shall possess the qualifications required for members of the General Assembly as shall be necessary to complete the number required to constitute the board.

4. R.S. 19:21-4 is amended to read as follows:

Substitute clerk of the board.

19:21-4. If the clerk of the board be absent from such meeting at the time appointed therefor, the chairman of the board shall forthwith, after the oaths or affirmations shall have been administered and taken, proceed to appoint a fit person to be the clerk of the board; and before proceeding to canvass and estimate the votes, the chairman of the board shall administer to the clerk thereof, and such clerk shall take, an oath or affirmation in the following form: "You do swear (or affirm, as the case may be) that you will faithfully execute the duties of clerk of this board."

5. R.S. 19:21-5 is amended to read as follows:

Production of relevant statements, copies.

19:21-5. The Secretary of State or the secretary's designee shall

thereupon produce and lay before the board all statements and copies relating to such election which the secretary shall have received or obtained, as hereinbefore provided. If he shall neglect to produce and lay before the board or shall withhold any such statement or copy received or obtained by him, the chairman of the board shall forthwith summon the secretary or the secretary's designee, as appropriate, to appear and produce and lay before the board the statement or copy, and thereupon the secretary or the secretary's designee shall forthwith produce and lay the same before the board.

6. This act shall take effect immediately.

Approved December 23, 1987.

CHAPTER 339

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

07-2540 Development of Historical

Resources	\$250,000

Special Purpose:

Constitutional Bicentennial

Commission	(\$250,000)

2. This act shall take effect immediately.

Approved December 23, 1987.

CHAPTER 340

AN ACT concerning indemnification of public employees for exemplary or punitive damages and amending N.J.S. 59:10-1, N.J.S. 59:10-2 and N.J.S. 59:10-4.

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

1. N.J.S. 59:10-1 is amended to read as follows:

Indemnification.

59:10-1. Indemnification. If pursuant to the provisions of P.L. 1972, c. 48 (C. 59:10A-1 et seq.) the Attorney General provides for the defense of an employee or former employee, the State shall provide indemnification for the State employee.

Nothing in this section requires the State to pay for punitive or exemplary damages or damages resulting from the commission of a crime. The State may, however, indemnify a State employee for exemplary or punitive damages resulting from the employee's civil violation of State or federal law if, in the opinion of the Attorney General, the acts committed by the State employee upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct, or an intentional wrong.

2. N.J.S. 59:10-2 is amended to read as follows:

Refusal to defend—indemnification.

59:10-2. Refusal to defend—indemnification. If the Attorney General refuses to provide for the defense of a State employee as required by the provisions of P.L. 1972, c. 48 (C. 59:10A-1 et seq.), the employee or former employee of the State shall be entitled to indemnification from the State if he establishes that the act or omission upon which the claim or judgment was based occurred within the scope of his employment as an employee of the State and the State fails to establish that he acted or failed to act because of actual fraud, actual malice or willful misconduct.

If the State employee establishes that he was entitled to a defense under the provisions of this chapter, the State shall pay or reimburse him for any bona fide settlement agreements entered into by the employee, and shall pay or reimburse him for any judgments entered against the employee, and shall pay or reimburse him for all costs of defending the action, including reasonable counsel fees and expenses, together with costs of appeal, if any.

Nothing in this section requires the State to pay for punitive or exemplary damages or damages resulting from the commission of a crime. The State may indemnify a State employee for exemplary or punitive damages resulting from the employee's civil violation of State or federal law if, in the opinion of the Attorney General, the acts committed by the State employee upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct, or an intentional wrong.

3. N.J.S. 59:10-4 is amended to read as follows:

Local public entities—authority to indemnify.

59:10-4. Local public entities—authority to indemnify. Local public entities are hereby empowered to indemnify local public employees consistent with the provisions of this act. A local public entity may indemnify an employee of the local public entity for exemplary or punitive damages resulting from the employee's civil violation of State or federal law if, in the opinion of the governing body of the local public entity, the acts committed by the employee upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

4. This act shall take effect immediately.

Approved December 24, 1987.

CHAPTER 341

AN ACT concerning child abuse or neglect, amending R.S. 9:6-1, R.S. 9:6-2, P.L. 1971, c. 437 and amending and supplementing P.L. 1974, c. 119.

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

1. R.S. 9:6-1 is amended to read as follows:

Abuse, abandonment, cruelty and neglect of child; what constitutes.

9:6-1. Abuse, abandonment, cruelty and neglect of child; what constitutes. Abuse of a child shall consist in any of the following acts: (a) disposing of the custody of a child contrary to law; (b) employing or permitting a child to be employed in any vocation or employment injurious to its health or dangerous to its life or limb, or contrary to the laws of this State; (c) employing or permitting a child to be

employed in any occupation, employment or vocation dangerous to the morals of such child; (d) the habitual use by the parent or by a person having the custody and control of a child, in the hearing of such child, of profane, indecent or obscene language; (e) the performing of any indecent, immoral or unlawful act or deed, in the presence of a child, that may tend to debauch or endanger or degrade the morals of the child; (f) permitting or allowing any other person to perform any indecent, immoral or unlawful act in the presence of the child that may tend to debauch or endanger the morals of such child; (g) using excessive physical restraint on the child under circumstances which do not indicate that the child's behavior is harmful to himself, others or property; or (h) in an institution as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21), willfully isolating the child from ordinary social contact under circumstances which indicate emotional or social deprivation.

Abandonment of a child shall consist in any of the following acts by anyone having the custody or control of the child: (a) willfully forsaking a child; (b) failing to care for and keep the control and custody of a child so that the child shall be exposed to physical or moral risk without proper and sufficient protection; (c) failing to care for and keep the control and custody of a child so that the child shall be liable to be supported and maintained at the expense of the public, or by child caring societies or private persons not legally chargeable with its or their care, custody and control.

Cruelty to a child shall consist in any of the following acts: (a) inflicting unnecessarily severe corporal punishment upon a child; (b) inflicting upon a child unnecessary suffering or pain, either mental or physical; (c) habitually tormenting, vexing or afflicting a child; (d) any willful act of omission or commission whereby unnecessary pain and suffering, whether mental or physical, is caused or permitted to be inflicted on a child; (e) or exposing a child to unnecessary hardship, fatigue or mental or physical strains that may tend to injure the health or physical or moral well-being of such child.

Neglect of a child shall consist in any of the following acts, by anyone having the custody or control of the child: (a) willfully failing to provide proper and sufficient food, clothing, maintenance, regular school education as required by law, medical attendance or surgical treatment, and a clean and proper home, or (b) failure to do or permit to be done any act necessary for the child's physical or moral well-being. Neglect also means the continued inappropriate placement of a child in an institution, as defined in section 1 of P.L. 1974, c. 119

(C. 9:6-8.21), with the knowledge that the placement has resulted and may continue to result in harm to the child's mental or physical well-being.

2. R.S. 9:6-2 is amended to read as follows:

"Parent" and "custodian" defined.

9:6-2. "Parent" and "custodian" defined. "Parent," as used in this chapter, shall include the stepfather and stepmother and the adoptive or foster parent. "The person having the care, custody and control of any child," as used in this chapter, shall mean any person who has assumed the care of a child, or any person with whom a child is living at the time the offense is committed, and shall include a teacher, employee or volunteer, whether compensated or uncompensated, of an institution as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21) who is responsible for the child's welfare, and a person who legally or voluntarily assumes the care, custody, maintenance or support of the child. Custodian also includes any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Custodian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21).

3. Section 2 of P.L. 1971, c. 437 (C. 9:6-8.9) is amended to read as follows:

C. 9:6-8.9 "Abused child" defined.

2. For purposes of this act:

"Abused child" means a child under the age of 18 years whose parent, guardian, or other person having his custody and control:

a. Inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;

b. Creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; or

c. Commits or allows to be committed an act of sexual abuse against the child;

d. Or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, or such other person having his custody and control, to exercise a minimum degree of care (1) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (2) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment or using excessive physical restraint under circumstances which do not indicate that the child's behavior is harmful to himself, others or property; or by any other act of a similarly serious nature requiring the aid of the court;

e. Or a child who has been willfully abandoned by his parent or guardian, or such other person having his custody and control;

f. Or a child who is in an institution as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21) and (1) has been so placed inappropriately for a continued period of time with the knowledge that the placement has resulted and may continue to result in harm to the child's mental or physical well-being or (2) has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

A child shall not be considered abused pursuant to subsection f. of this section if the acts or omissions described therein occur in a day school as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21).

4. Section 3 of P.L. 1971, c. 437 (C. 9:6-8.10) is amended to read as follows:

C. 9:6-8.10 Report of abuse.

3. Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Youth and Family Services by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

5. Section 6 of P.L. 1971, c. 437 (C. 9:6-8.13) is amended to read as follows:

C. 9:6-8.13 Immunity.

6. Anyone acting pursuant to this act in the making of a report under this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any judicial proceeding resulting from such report.

A person who reports or causes to report in good faith an allegation of child abuse or neglect pursuant to section 3 of P.L. 1971, c. 437 (C. 9:6-8.10) and as a result thereof is discharged from employment or in any manner discriminated against with respect to compensation, hire, tenure or terms, conditions or privileges of employment, may file a cause of action for appropriate relief in the family part of the Chancery Division of the Superior Court in the county in which the discharge or alleged discrimination occurred or in the county of the person's primary residence.

If the court finds that the person was discharged or discriminated against as a result of the person's reporting an allegation of child abuse or neglect, the court may grant reinstatement of employment with back pay or other legal or equitable relief.

6. Section 1 of P.L. 1974, c. 119 (C. 9:6-8.21) is amended to read as follows:

C. 9:6-8.21 Definitions.

1. As used in this act, unless the specific context indicates otherwise:

a. "Parent or guardian" means any natural parent, adoptive parent, foster parent, stepparent, or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. Parent or guardian includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21).

b. "Child" means any child alleged to have been abused or neglected.

c. "Abused or neglected child" means a child less than 18 years of age whose parent or guardian, as herein defined, (1) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; (2) creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; (3) commits or allows to be committed an act of sexual abuse against the child; (4) or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, as herein defined, to exercise a minimum degree of care (a) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court; (5) or a child who has been willfully abandoned by his parent or guardian, as herein defined; (6) or a child upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself, others or property; (7) or a child who is in an institution and (a) has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or (b) who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

A child shall not be considered abused or neglected pursuant to paragraph (7) of subsection c. of this section if the acts or omissions described therein occur in a day school as defined in this section.

No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone be considered to be abused or neglected.

d. "Law guardian" means an attorney admitted to the practice of law in this State, regularly employed by the Department of the Public Advocate, and designated under this act to represent minors in alleged cases of child abuse or neglect. The Public Advocate may, by regulation, provide that certain classes of cases may be handled by the Office of the Public Defender.

e. "Attorney" means an attorney admitted to the practice of law in this State who shall be privately retained; or, in the instance of an indigent parent or guardian, an attorney from the Department of the Public Advocate who shall be appointed in order to avoid conflict between the interests of the child and the parent or guardian in regard to representation. The Public Advocate may, by regulation, provide that certain classes of cases may be handled by the Office of the Public Defender.

f. "Division" means the Division of Youth and Family Services in the Department of Human Services unless otherwise specified.

g. "Institution" means a public or private facility in the State which provides children with out of home care, supervision or maintenance. Institution includes, but is not limited to, a correctional facility, detention facility, treatment facility, day care center, residential school, shelter and hospital.

h. "Day school" means a public or private school which provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.

C. 9:6-3.1 Suspension; due process rights; remedial plan.

7. (New section) a. A teacher, employee, volunteer or staff person of an institution as defined in section 1 of P.L. 1974, c. 119 (C. 9:6-8.21) who is alleged to have committed an act of child abuse or neglect as defined in R.S. 9:6-1, section 2 of P.L. 1971, c. 437 (C. 9:6-8.9) and section 1 of P.L. 1974, c. 119 (C. 9:6-8.21) shall be temporarily suspended by the appointing authority from his position at the institution with pay, or reassigned to other duties which would remove the risk of harm to the child under the person's custody or control, if there is reasonable cause for the appointing authority to believe that the life or health of the alleged victim or other children at the institution is in imminent danger due to continued contact between the alleged perpetrator and a child at the institution.

A public employee suspended pursuant to this subsection shall be accorded and may exercise due process rights, including notice of the proposed suspension and a presuspension opportunity to respond and any other due process rights provided under the laws of this State governing public employment and under any applicable individual or group contractual agreement. A private employee suspended pursuant to this subsection shall be accorded and may exercise due process rights provided for under the laws of this State governing private employment and under any applicable individual or group employee contractual agreement.

b. If the child abuse or neglect is the result of a single act occurring in an institution, within 30 days of receipt of the report of child abuse or neglect, the division may request that the chief administrator of the institution formulate a plan of remedial action. The plan may include, but shall not be limited to, action to be taken with respect to a teacher, employee, volunteer or staff person of the institution to assure the health and safety of the alleged victim and other children at the institution and to prevent future acts of abuse or neglect. Within 30 days of the date the division requested the remedial plan, the chief administrator shall notify the division in writing of the progress in preparing the plan. The chief administrator shall complete the plan within 90 days of the date the division requested the plan.

c. If the child abuse or neglect is the result of several incidents occurring in an institution, within 30 days of receipt of the report of child abuse or neglect, the division may request that the chief administrator of the institution make administrative, personnel or structural changes at the institution. Within 30 days of the date the division made its request, the chief administrator shall notify the division of the progress in complying with the terms of the division's request. The division and chief administrator shall determine a time frame for completion of the terms of the request.

d. If a chief administrator of an institution does not formulate or implement a remedial plan or make any changes requested by the division, the division may recommend to the authority which licenses, oversees, approves or authorizes the operation of the institution that appropriate sanctions or actions be enforced or taken against the institution.

C. 9:6-8.72a Rules, regulations.

8. The Commissioner of the Department of Education shall, in cooperation and consultation with the Commissioner of the Depart-

ment of Human Services, adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), concerning the relationship, rights and responsibilities of the Division of Youth and Family Services in the Department of Human Services and local school districts regarding the reporting and investigation of allegations of child abuse.

9. This act shall take effect immediately.

Approved December 24, 1987.

CHAPTER 342

AN ACT concerning insurance fraud, and amending P.L. 1983, c. 320.

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

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

C. 17:33A-6 Statement on insurance claim forms.

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

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

2. This act shall take effect immediately.

Approved December 24, 1987.

CHAPTER 343

AN ACT concerning retainage of payment in the case of certain public school contracts and supplementing chapter 18A 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:18A-40.1 Partial payments.

1. Any contract or agreement, the total price of which exceeds \$100,000.00, entered into by a board of education involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the board of education pursuant to section 2 of this act.

C. 18A:18A-40.2 Withholding, deposit of negotiable bearer bonds, notes.

2. Whenever any contract, the total price of which exceeds \$100,000.00, entered into by a board of education for the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property, requires the withholding of payment of a percentage of the amount of the contract, the contractor may agree to the withholding of payments in the manner prescribed in the contract, or may deposit with the board of education negotiable bearer bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be withheld pursuant to the terms of the contract. The nature and amount of the bonds or notes to be deposited shall be subject to approval by the board of education. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

If the contractor agrees to the withholding of payments, the amount withheld shall be deposited, with a banking institution or savings and loan association insured by an agency of the federal government, in an account bearing interest at the rate currently paid by such institutions or associations on time or savings deposits. The amount withheld, or the bonds or notes deposited, and any interest accruing on such bonds or notes, shall be returned to the contractor upon fulfillment of the terms of the contract relating to such withholding. Any interest accruing on cash payments withheld shall be credited to the board of education.

C. 18A:18A-40.3 2% of each partial payment.

3. With respect to any contract or agreement entered into by a board of education pursuant to section 1 of this act for which the contractor shall agree to the withholding of payments pursuant to

section 2 of this act, 2% of the amount due on each partial payment shall be withheld by the board of education pending completion of the contract or agreement.

4. This act shall take effect immediately.

Approved December 24, 1987.

CHAPTER 344

AN ACT concerning the application of flat charges to certain motor vehicles and amending P.L. 1984, c. 1.

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

1. Section 1 of P.L. 1984, c. 1 (C. 17:29A-37.1) is amended to read as follows:

C. 17:29A-37.1 Flat charges.

1. a. All flat charges (also referred to as flat 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)), authorized by the Commissioner of Insurance for use by all filers, as defined in section 1 of P.L. 1944, c. 27 (C. 17:29A-1), writing private passenger automobile insurance in the voluntary and residual markets, which are collected on a per car and per coverage basis on automobile insurance policies issued or renewed in the voluntary or residual market, with an effective date of January 1, 1984 or thereafter, shall be paid to the New Jersey Automobile Full Insurance Underwriting Association for use for association purposes. All moneys collected from the flat charges shall be certified to by the filers, including servicing carriers of the association, and transferred, net of a pro rata portion of any producer commissions and all premium taxes payable thereon, to the association in accordance with the provisions of this subsection and the association's plan of operation. No other expenses shall be payable to or deductible from the flat charges transferable to the association.

Flat charges collected under this subsection shall be transferred to the association within 10 days of the close of the month of receipt by the insurer or servicing carrier. In the case of policy premiums

paid in accordance with a payment plan or other installment basis, the insurer shall, within 10 days of the close of the month of receipt of payment, transfer to the association a proportionate share of the total flat charges on the policy, based on the payment schedule or amount of payment received.

b. Flat charges collected on any automobile insurance policy written in the voluntary or residual market with an effective date prior to January 1, 1984, the policy term of which, however, extends into 1984, shall be retained by the insurer or filer; except that if a policy subject to this subsection has been canceled for reasons other than nonpayment of premium, the insurer or filer shall retain only that portion of the flat charges earned on the policy up to the date of cancellation and shall return any unearned remainder to the policyholder in the same manner as other unearned premiums.

Flat charges shall not be deemed to include any moneys collected from any residual market equalization charge levied pursuant to section 20 of P.L. 1983, c. 65 (C. 17:30E-8).

Flat charges collected in accordance with subsection a. of this section shall be considered in determining taxable premiums in accordance with P.L. 1945, c. 132 (C. 54:18A-1 et seq.), but shall not be considered in determining excess profits in accordance with section 2 of P.L. 1983, c. 357 (C. 17:29A-5.3).

c. The flat charges authorized by the Commissioner of Insurance for private passenger automobile insurance in the voluntary and residual markets may be imposed upon all insured motor vehicles other than private passenger automobiles, including motor vehicles insured by the automobile insurance plan established pursuant to P.L. 1970, c. 215 (C. 17:29D-1), and motor vehicles of a type, as is determined by the Commissioner of Insurance, which are registered with the Division of Motor Vehicles as self-insured vehicles pursuant to section 30 of P.L. 1952, c. 173 (C. 39:6-52), in accordance with rules and regulations established by the commissioner. In the case of motor vehicles other than private passenger automobiles which are insured by an insurer in the voluntary market or in any insurance plan established pursuant to P.L. 1970, c. 215 (C. 17:29D-1), the insurer shall forward the flat charge, net of a pro rata portion of the producer's commission, to the New Jersey Automobile Full Insurance Underwriting Association. In the case of a self-insurer required to pay a flat charge, the self-insurer shall forward the full amount of the flat charge to the association. The Division of Motor Vehicles shall

not issue a certificate of self-insurance unless the association has certified that the flat charge has been paid. Failure to pay the flat charge shall constitute a reasonable ground for cancellation of a certificate of self-insurance pursuant to section 30 of P.L. 1952, c. 173 (C. 39:6-52). Any self-insurer which fails to pay the flat charge to the association for any self-insured vehicle shall be liable to pay a fine in the amount of \$100.00 per vehicle for the first offense and \$200.00 for the second and each subsequent offense.

Notwithstanding any other provision of this section, flat charges shall be imposed on such motor vehicles as are determined by the Commissioner of Insurance, which vehicles have been registered with the Division of Motor Vehicles in accordance with Title 39 of the Revised Statutes as commercial motor vehicles and have been issued commercial license plates or farmers' license plates, and on motor vehicles, of a type determined by the Commissioner of Insurance, which are registered with the Division of Motor Vehicles as self-insured vehicles pursuant to section 30 of P.L. 1952, c. 173 (C. 39:6-52).

2. This act shall take effect immediately.

Approved December 24, 1987.

CHAPTER 345

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 election for the authorization or issuance of bonds of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the notice to Military Service Voters and Their Relatives and Friends was published as a classified rather than a display advertisement in accordance with the provisions of section 7 of the "Absentee Voting Law (1953)," P.L. 1953, c. 211 (C. 19:57-7); and notwithstanding that such notices were not published in accordance with the provisions of N.J.S. 18A:14-25; provided that said notice was timely published

in accordance with all other legal requirements and provided that no action, suit or other proceeding has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved December 24, 1987.

CHAPTER 346

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of 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	\$300,000
Special Purpose:	
Snyder farm operative assessment,	
planning and operation	(\$300,000)

2. This act shall take effect immediately but shall remain inoperative until the enactment into law of the annual appropriations act for the fiscal year ending June 30, 1988, P.L. 1987, c. 154.

Approved December 24, 1987.

CHAPTER 347

AN ACT concerning sanitary landfill facilities, and amending P.L. 1981, c. 306.

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

1. Section 3 of P.L. 1981, c. 306 (C. 13:1E-102) is amended to read as follows:

C. 13:1E-102 Definitions.

3. As used in this act:

a. "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 necessarily limited to, the costs of the placement of earthen or vegetative cover, the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility, and the cost of general liability insurance, including environmental impairment liability insurance, or an amount sufficient to create a self-insurance fund as may be determined by the Board of Public Utilities pursuant to section 10 of P.L. 1981, c. 306 (C. 13:1E-109), to fund potential claims against the owner or operator of the sanitary landfill facility during the closure and post-closure period.

b. "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, 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.

c. "Division" means the Division of Taxation in the Department of the Treasury.

d. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

e. "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.

f. "Taxpayer" means the owner or operator of a sanitary landfill facility subject to the tax provisions of this act.

2. Section 10 of P.L. 1981, c. 306 (C. 13:1E-109) is amended to read as follows:

C. 13:1E-109 Monthly deposits in escrow account.

10. a. The owner or operator of every sanitary landfill facility shall deposit, on a monthly basis in an interest-bearing account with an accredited financial institution, an amount equal to \$1.00 per ton of all solid waste accepted for disposal during the preceding month at the sanitary landfill facility. In the event that any solid waste is measured, upon acceptance for disposal, by other than tons, the amount to be deposited shall be calculated by using the equivalents thereof as shall be determined by the division.

The account established pursuant to this subsection shall constitute an escrow account for the closure of the particular sanitary landfill facility, and no withdrawals therefrom may be made without written approval of the department, except as otherwise authorized by the department.

b. Any owner or operator of a sanitary landfill facility who shall fail to deposit funds into an escrow account, as provided herein, or uses those funds for any purpose other than closing costs, as approved by the department, shall be guilty of a crime of the third degree.

c. The Board of Public Utilities may, in accordance with the provisions of P.L. 1970, c. 40 (C. 48:13A-1 et seq.), issue an appropriate order increasing current tariffs established pursuant to law for the solid waste disposal operations of a sanitary landfill facility as may be necessary to purchase general liability insurance, including environmental impairment liability insurance, or to create a self-insurance fund sufficient to meet anticipated present and future obligations for the closure and post-closure period. Any additional revenues specifically collected for this insurance or fund shall be deposited in the escrow account established pursuant to subsection a. of this section for the closure of the facility and shall be withdrawn only for the purchase of insurance or the payment of claims or claims costs made against the owner or operator of the sanitary landfill facility, as authorized by the department. No withdrawals from an escrow account shall be made for insurance costs, claims or claims

costs unless and until the board issues an appropriate order increasing the relevant tariff to provide specifically for these costs.

3. This act shall take effect immediately.

Approved December 31, 1987.

CHAPTER 348

AN ACT concerning casino licenses and amending P.L. 1977, c. 110.

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

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

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

88. Renewal of Casino Licenses. a. Subject to the power of the commission to deny, revoke, or suspend licenses, any casino license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission. The license period for a renewed casino license shall be one year for the first two renewal periods succeeding the initial issuance of a casino license pursuant to section 87 of P.L. 1977, c. 110 (C. 5:12-87). Thereafter, a casino license shall be renewed for a period of two years, but the commission may reopen licensing hearings at any time. In addition, the commission shall reopen licensing hearings at any time at the request of the Division of Gaming Enforcement in the Department of Law and Public Safety. Notwithstanding the foregoing, the commission may, for the purpose of facilitating its administration of this act, renew the casino license of the holders of licenses initially opening after January 1, 1981 for a period of one year; provided, however, the renewal period for those particular casino licenses may not be adjusted more than once pursuant to this provision. The commission shall act upon any such application prior to the date of expiration of the current license.

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

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

2. Section 139 of P.L. 1977, c. 110 (C. 5:12-139) is amended to read as follows:

C. 5:12-139 Casino license fees.

139. Casino License Fees. a. The commission shall, by regulation, establish annual fees for the issuance or renewal of casino licenses. The issuance fee shall be based upon the cost of investigation and consideration of the license application and shall be not less than \$200,000.00. The renewal fee shall be based upon the cost of maintaining control and regulatory activities contemplated by this act and shall be not less than \$100,000.00 for a one-year casino license and \$200,000.00 for a two-year casino license.

b. The Attorney General shall certify to the commission actual and prospective costs of the investigative and enforcement functions of the division, which costs shall be the basis, together with the operating expenses of the commission, for the establishment of annual license issuance and renewal fees.

c. A nonrefundable deposit of at least \$100,000.00 shall be required to be posted with each application for a casino license and shall be applied to the initial license fee if the application is approved.

3. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 349

AN ACT concerning Medicaid eligibility for elderly and disabled persons 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. §1396p.(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;

(9)(a) Is a pregnant woman, or is a child who is under one year of age, or, on and after October 1, 1987, is a child under two years of age; and

(b) Is a member of a family whose income does not exceed the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L. 99-509 (42 U.S.C. §1396a), except that a pregnant woman who is determined to be a qualified applicant shall, notwithstanding any change in the income of the family of which she is a member, continue to be deemed a qualified applicant until the end of the 60 day period beginning on the last day of her pregnancy;

(10) Is a pregnant woman who is determined by a provider to be presumptively eligible for medical assistance based on criteria established by the commissioner, pursuant to section 9407 of Pub.L. 99-509 (42 U.S.C. §1396a(a)); or

(11) Is an individual 65 years of age and older, or an individual who is blind or disabled pursuant to section 301 of Pub.L. 92-603 (42 U.S.C. §1382c), whose income does not exceed 100% of the poverty level, adjusted for family size, and whose resources do not exceed 100% of the resource standard used to determine medically needy eligibility pursuant to paragraph (8) of this subsection.

j. "Recipient" means any qualified applicant receiving benefits under this act.

k. "Resident" means a person who is living in the State voluntarily with the intention of making his home here and not for a temporary purpose. Temporary absences from the State, with subsequent returns to the State or intent to return when the purposes of the absences have been accomplished, do not interrupt continuity of residence.

l. "State Medicaid Commission" means the Governor, the Commissioner of Human Services, the President of the Senate and the Speaker of the General Assembly, hereby constituted a commission to approve and direct the means and method for the payment of claims pursuant to this act.

m. "Third party" means any person, institution, corporation, insurance company, public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive

maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L. 1968, c. 413 (C. 30:4D-6b.- (18) and (19)).

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," of Pub.L. 97-35 (42 U.S.C. §9902(2)).

2. This act shall take effect on July 1, 1987, or upon enactment, whichever is later.

Approved January 4, 1988.

CHAPTER 350

AN ACT establishing a personal attendant services program in the Department of Human Services, 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-13 Short title.

1. This act shall be known and may be cited as the "Personal Attendant Services Act."

C. 30:4G-14 Definitions.

2. As used in this act:

"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.

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Designated county agency" means a county office on the handicapped or other county agency designated by the county government, subject to approval by the commissioner, to administer in that county the personal attendant services program established pursuant to this act.

“Personal attendant” means a person who meets the qualifications with regard to training, equivalent work experience or certification in the provision of home health services established by the commissioner and who provides personal attendant services to a person who is eligible for the personal attendant services program established pursuant to this act.

“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 other forms of transportation.

C. 30:4G-15 Personal attendant services program.

3. There is established a personal attendant services program in the Department of Human Services, to be administered by designated county agencies in each of the 21 counties. The program, within the limits of funds appropriated or otherwise made available to it, shall assist adults with chronic physical disabilities in the performance of routine, nonmedical tasks that are directly related to maintaining their health and independence, in order to enable these persons to remain in their homes and communities and to be employed or receive training or education related to employment or to avoid institutionalization.

C. 30:4G-16 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 services program if:

- a. The person is in need of personal attendant services pursuant to a written personal attendant services plan prepared by the staff of the designated county agency in cooperation with the person who shall receive the services;
- b. The person is capable of managing and supervising their personal attendant services;
- c. A relative or other informal care giver is not available to provide the services that the person needs;
- d. The person lives in a private house or apartment, rooming or boarding house or residential health care facility; and the personal attendant services that the person shall receive are supplemental to,

and not duplicative of, services provided to the person in the rooming or boarding house or residential health care facility pursuant to licensure requirements. A person who resides, or is a patient, in a skilled nursing or intermediate care facility, special hospital or other inpatient medical setting is not eligible for the personal attendant services program;

e. The attending physician of the person who shall receive the personal attendant services has confirmed in writing that the person is self-directed and requires no assistance in the coordination of therapeutic regimes, and that the personal attendant services will be adequate and appropriate to meet the person's needs; and

f. The person requires no less than 10 and no more than 40 hours of personal attendant services from the program per week. The commissioner shall develop a policy for individual exceptions to this requirement.

C. 30:4G-17 Social, financial evaluations; plan.

5. a. Within 30 days after a person has applied to receive personal attendant services, a member of the staff of the designated county agency in the county in which the person resides shall perform a social evaluation of the applicant to determine if the applicant meets the eligibility criteria established pursuant to section 4 of this act, and a financial evaluation to determine the ability of the person or the person's spouse to pay for personal attendant services in accordance with section 7 of this act. The designated county agency shall notify the applicant in writing regarding the findings of the social and financial evaluations.

b. If an applicant is determined to be eligible for the personal attendant services program, the designated county agency shall prepare a personal attendant services plan, with the participation of the applicant, which is designed to meet the applicant's specific needs for personal attendant services, based upon the social evaluation performed pursuant to subsection a. of this section.

The plan shall include a list of personal attendant services to be provided pursuant to the plan; an estimate of the frequency and duration of the services; an estimate of the total cost of the services; and a statement of the percentage of the total cost, or the actual amount of money, that the eligible person or the person's spouse is required to pay for those services in accordance with section 7 of this act. The designated county agency shall revise the plan as frequently

as necessary but shall perform a comprehensive social and financial evaluation of the eligible person annually.

c. In the event of a dispute between the applicant and the designated county agency with regard to the applicant's eligibility for the personal attendant services program or concerning the services plan prepared pursuant to subsection b. of this section, the applicant may request a hearing, which shall be conducted pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

d. The social and financial evaluations performed pursuant to subsection a. of this section, and the personal attendant services plan prepared pursuant to subsection b. of this section, shall be completed on forms prescribed by the commissioner.

C. 30:4G-18 Contracts with other providers; fee schedule.

6. a. The designated county agency shall contract with other service providers, including private individuals, for the provision of personal attendant services pursuant to this act, in accordance with rules and regulations adopted by the commissioner.

b. The commissioner shall establish a fee schedule for payments or reimbursements to providers of personal attendant services.

C. 30:4G-19 Sliding fee scale.

7. a. The commissioner shall establish a sliding fee scale for personal attendant services based upon the ability of an eligible person or the person's spouse to pay for those services. The sliding fee scale shall apply only to an eligible person and the person's spouse whose combined annual gross income exceeds the State's applicable income eligibility limit for social services established pursuant to the "Social Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. §1397 et seq.). Any eligible person whose combined annual gross income is less than the State's applicable income eligibility limit shall not be required to pay for personal attendant services.

b. If the costs of an eligible person's personal attendant services are covered in whole or in part by another State or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the personal attendant services program shall be the secondary payer.

c. The eligible person receiving personal attendant services shall sign weekly vouchers attesting to the hours of service rendered, and the personal attendant shall then be paid by the designated county agency.

C. 30:4G-20 Advisory Council on Personal Attendant Services.

8. a. There is established the Advisory Council on Personal Attendant Services in the department, which shall consist of 20 members appointed by the commissioner, at least 11 of whom are consumers of personal attendant services or groups or organizations which represent consumers.

Vacancies in the membership of the advisory council shall be filled in the same manner provided for the original appointments. The members of the advisory council shall serve without compensation but shall be reimbursed for the reasonable expenses necessarily incurred in the performance of their duties.

b. The advisory council shall organize no later than 30 days after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the advisory council.

c. The department shall provide such stenographic, clerical and other administrative assistants, and such professional staff, as the advisory council requires to carry out its work.

d. It shall be the responsibility of the advisory council to:

(1) Advise the commissioner on matters pertaining to personal attendant services and the development of the personal attendant services program, upon the commissioner's request;

(2) Review the rules and regulations adopted for the personal attendant services program and make recommendations to the commissioner thereon; and

(3) Evaluate the effectiveness of the personal attendant services program in meeting its objectives and share that evaluation with the commissioner.

C. 30:4G-21 Rules, regulations.

9. The commissioner, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

10. There is appropriated \$3,000,000.00 from the General Fund to the department to carry out the provisions of this act, of which sum no more than 15% shall be expended by the State and the designated county agencies to meet the administrative costs of the personal attendant services program.

11. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 351

AN ACT concerning the residency requirement for certain borough officials and amending R.S. 40:87-15.

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

1. R.S. 40:87-15 is amended to read as follows:

Residency requirement; exemption.

40:87-15. a. In addition to the officers to be elected there shall be appointed a clerk. In boroughs, with a population of less than 10,000, the tax collector may also be appointed the clerk. There may be appointed a borough treasurer, a borough attorney, a borough engineer, a borough building inspector, one or more marshals, a poundkeeper, a superintendent of highways, and such other officers as the council may deem necessary. These officers shall perform the duties required by law and the ordinances of the council. All of these officers, except the borough clerk, borough attorney, borough engineer, borough building inspector, borough poundkeeper and, in boroughs with a population of less than 2,500, the clerk and the borough treasurer, where such officeholders do not at the same time occupy a second office for which residency is required, except as may be provided for pursuant to subsection b. of this section, shall be residents of the borough. They shall hold office during the pleasure of the council except the clerk, tax collector, and tax assessor who shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes. No officer shall be removed without being afforded an opportunity to be heard. Unless sooner removed, however, they shall hold office for one year, and until their successors shall have qualified, except the clerk, tax collector, and tax assessor who shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

b. Any of the following officials may be exempted from the residency requirement set forth in subsection a. of this section, provided that the official does not also hold a second office for which residency is required:

- (1) In any borough:
 - (a) the borough attorney;
 - (b) the borough engineer;
 - (c) the borough building inspector;
 - (d) the borough poundkeeper; and
 - (e) the borough clerk; and
- (2) In a borough with a population of less than 2,500, according to the latest federal decennial census, the borough treasurer.

2. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 352

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

C. 5:12-83 Approved hotel.

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

- a. Contain qualifying sleeping units as defined in section 27 of this act;
- b. Contain qualifying indoor public space available and of the sort regularly used for conventions, exhibits, meetings, banquets and similar functions, and for dining, entertainment, and sports facilities, including restaurants, bars, lounges, show theaters, shops, dance

halls, swimming facilities, and tennis facilities but excluding lobbies, casinos, and parking areas; and

c. Contain a single casino room as defined in section 6 of this act, in accordance with the minimum number of qualifying sleeping units and minimum amount of qualifying indoor public space as provided in the following chart, but, except as hereinafter provided, in no event may a casino room be permitted to exceed the maximum square footage stated:

Minimum Number of Qualifying Sleeping Units	Minimum Square Footage of Qualifying Indoor Public Space Sq. Ft.	Maximum Square Footage of Casino Room Sq. Ft.
500	65,000	30,000
750	80,000	40,000
1,000	95,000	50,000
1,250	110,000	60,000
1,500	125,000	70,000
1,750	140,000	85,000
2,000	155,000	100,000

d. Once a hotel is initially approved, the commission shall thereafter rely on the certification of the casino licensee with regard to the number of rooms and the amount of qualifying indoor public space and shall permit rehabilitation, renovation and alteration of any part of the approved hotel even if the rehabilitation, renovation, or alteration will mean that the casino licensee does not temporarily meet the requirements of subsection c. so long as the licensee certifies that the rehabilitation, renovation, or alteration shall be completed within one year.

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

f. If an approved hotel shall provide more than the minimum number of qualifying sleeping units as hereinbefore defined than is required by subsection c. hereof, the maximum casino space may be permitted to increase by 40 square feet for each such excess sleeping unit.

g. If a licensed facility shall provide more qualifying indoor public space as hereinbefore defined than is required by subsection c. hereof, the maximum allowable casino space may be permitted to increase by a figure representing one-half of the amount of such excess qualify-

ing indoor public space, including space serving as kitchen support facilities.

h. In no event may the total of the increased allowable casino space be permitted to exceed a figure representing the original maximum casino size.

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

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

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

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

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

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity and reputation of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the applicant or applicants. The reputation and integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever infor-

mation, documentation or assurance as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

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

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

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L. 1977, c. 110 (C. 5:12-83) and its proposed location will not adversely affect casino operations or overall environmental conditions. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act, the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof, and the requirements of the "Coastal Area Facility Review Act," P.L. 1973, c. 185 (C. 13:19-1 et seq.), a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall environment, including, without limitation, economic, social, demographic and competitive conditions as well as the natural resources of Atlantic City and the State of New Jersey.

3. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 353

AN ACT to amend and supplement 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 7 of P.L. 1977, c. 110 (C. 5:12-7) is amended to read as follows:

C. 5:12-7 Casino employee.

7. "Casino Employee"—Any natural person employed in the operation of a licensed casino, including, without limitation, boxmen; dealers or croupiers; floormen; machine mechanics; casino security employees; count room personnel; cage personnel; slot machine and slot booth personnel; collection personnel; casino surveillance personnel; and data processing personnel; or any other natural person whose employment duties require or authorize access to restricted casino

areas, including, without limitation, appropriate maintenance personnel; waiters and waitresses; and secretaries.

2. Section 8 of P.L. 1977, c. 110 (C. 5:12-8) is amended to read as follows:

C. 5:12-8 Casino hotel employee.

8. "Casino Hotel Employee"—Any natural person employed to perform services or duties in the conduct of the business of an approved hotel but who is not included within the definition of casino employee or casino key employee as stated in this act.

C. 5:12-43.1 Restricted casino areas.

3. (New section) "Restricted Casino Areas"—The cashier's cage, the soft count room, the hard count room, the slot cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the commission as restricted in a licensee's operation certificate.

4. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 354

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 54 of P.L. 1977, c. 110 (C. 5:12-54) is amended to read as follows:

C. 5:12-54 Organization and employees.

54. Organization and Employees. a. The commission may establish, and from time to time alter, such plan of organization as it may deem expedient, and may incur expenses within the limits of funds available to it.

b. The commission shall elect annually by a majority of the full commission one of its members, other than the chairman, to serve as vice-chairman for the ensuing year. The vice-chairman shall be empowered to carry out all of the responsibilities of the chairman

as prescribed in this act during his absence, disqualification, or inability to serve.

c. The commission shall appoint an executive secretary who shall serve at its pleasure and shall be responsible for the conduct of its administrative affairs. No person shall be eligible for such appointment unless he shall have at least five years of responsible experience in public or business administration or possesses broad management skills.

d. The commission may employ such other personnel as it deems necessary. All employees of the commission, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the commission shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act" (P.L. 1941, c. 100; C. 34:13A-1 et seq.), as amended. Notwithstanding the provisions of any other law to the contrary, the commission may employ legal counsel who shall represent the commission in any proceeding to which it is a party, and who shall render legal advice to the commission upon its request. The commission may contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of its responsibilities under this act. Members and employees of the commission shall be enrolled in the Public Employees' Retirement System of New Jersey (P.L. 1954, c. 84; C. 43:15A-1 et seq.).

2. Section 58 of P.L. 1977, c. 110 (C. 5:12-58) is amended to read as follows:

C. 5:12-58 Restrictions on pre-employment by commissioners, commission employees and division employees and agents.

58. Restrictions on Pre-Employment by Commissioners, Commission Employees and Division Employees and Agents.

a. (Deleted by amendment.)

b. No person shall be appointed to or employed by the commission or division if, during the period commencing three years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino licensee pursuant to section 87 of P.L. 1977, c. 110 (C. 5:12-87) or as a casino service industry pursuant to subsection a. of section 92 of P.L. 1977, c. 110 (C. 5:12-92a.) or has an application for such a license pending before the commission; provided, however, that notwithstanding any other provision of this act to the contrary,

any such person may be appointed to or employed by the commission or division if his interest in any such casino licensee or casino service industry which is publicly traded would not, in the opinion of the employing agency, interfere with the objective discharge of such person's employment obligations, but in no instance shall any person be appointed to or employed by the commission or division if his interest in such a casino licensee or casino service industry which is publicly traded constituted a controlling interest in that casino licensee or casino service industry; and provided further, however, that notwithstanding any other provision of this act to the contrary, any such person may be employed by the commission or division in a secretarial or clerical position if, in the opinion of the employing agency, his previous employment by, or interest in, any such casino licensee or casino service industry would not interfere with the objective discharge of such person's employment obligations.

c. Prior to appointment or employment, each member of the commission, each employee of the commission, the director of the Division of Gaming Enforcement and each employee and agent of the division shall swear or affirm that he possesses no interest in any business or organization licensed by or registered with the commission.

d. Each member of the commission and the director of the division shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and his spouse and shall provide to the Attorney General a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and agent of the division, except for secretarial and clerical personnel, shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or agent and his spouse. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter.

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

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

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

b. The commission shall, no later than January 1, 1981, promulgate a Code of Ethics that is modeled upon the Code of Judicial Conduct of the American Bar Association, as amended and adopted by the Supreme Court of New Jersey. This Code of Ethics shall include, but not be limited to, provisions that address the propriety of relationships and dealings between the commission and its staff, and licensees and applicants for licensure under this act.

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

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

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

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

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

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

(4) No commission employee or any division employee or agent shall act in his official capacity in a matter concerning an applicant

for licensure or a licensee who is the employer of a spouse, child, parent or sibling of said commission or division employee or agent when the fact of the employment of such spouse, child, parent or sibling might reasonably be expected to impair the objectivity and independence of judgment of said commission employee or division employee or agent.

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

(6) No commission member shall meet with any person, except for any other member of the commission or employee of the commission, or discuss with any issues involving any pending or proposed application or any matter whatsoever which may reasonably be expected to come before the commission, or any member thereof, for determination unless the meeting or discussion takes place on the business premises of the commission, provided, however, that commission members may meet to consider matters requiring the physical inspection of equipment or premises at the location of the equipment or premises. All meetings or discussions subject to this paragraph shall be noted in a log maintained for this purpose and available for inspection pursuant to the provisions of P.L. 1963, c. 73 (C. 47:1A-1 et seq.).

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

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

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

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

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

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

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

4. Section 64 of P.L. 1977, c. 110 (C. 5:12-64) is amended to read as follows:

C. 5:12-64 Commission powers—denials and sanctions.

64. Commission Powers—Denials and Sanctions. The commission shall assure, to the extent required by this act, that licenses, approvals, certificates, or permits shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with the licensed casino operation or the ownership thereof by, unqualified or disqualified persons or persons whose operations are conducted in a manner not conforming with the provisions of this act. For the purposes of this section, "unqualified person" shall mean any person who is found by the commission to be unqualified pursuant to criteria set forth in section 84 or 89, and "disqualified person" shall mean any person found by the commission to be disqualified pursuant to the criteria set forth in section 86. In enforcing the provisions of this act, the commission shall have the power and authority to deny any application; limit or restrict any license, registration, certificate, permit or approval; suspend or revoke any license, registration, certificate, permit or approval; and impose a penalty on any person licensed, registered, or previously approved for any cause deemed reasonable by the commission pursuant to rules and regu-

lations promulgated thereby, except that no such denial, limitation, suspension or revocation shall be issued solely by reason of the fact that an applicant, registrant, or licensee holds an interest in or is associated with any licensed casino enterprise in any other jurisdiction.

5. Section 65 of P.L. 1977, c. 110 (C. 5:12-65) is amended to read as follows:

C. 5:12-65 Subpenas; oaths.

65. Subpenas; Oaths. The commission shall have the power and authority to issue subpenas and to compel the attendance of witnesses at any place within this State, to administer oaths and to require testimony under oath before the commission or division in the course of any investigation or hearing conducted under this act. The commission may serve or cause to be served its process or notices in a manner provided for the service of process and notice in civil actions in accordance with the rules of court. The commission and the division shall have the authority to propound written interrogatories and the commission may appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpenas, propound written interrogatories, and require testimony under oath.

6. Section 68 of P.L. 1977, c. 110 (C. 5:12-68) is amended to read as follows:

C. 5:12-68 Collection of fees, penalties or tax.

68. Collection of Fees, Penalties or Tax. At any time within five years after any amount of fees, interest, penalties or tax required to be collected pursuant to the provisions of this act shall become due and payable, the commission may bring a civil action in the courts of this State or any other state or of the United States, in the name of the State of New Jersey, to collect the amount delinquent, together with penalties and interest. An action may be brought whether or not the person owing the amount is at such time an applicant, licensee or registrant pursuant to the provisions of this act. If such action is brought in this State, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this State, the records of the commission shall be prima facie evidence of the determination of the fee or tax or the amount of the delinquency.

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

C. 5:12-69 Regulations.

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

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

c. Any interested person may file a petition with the commission requesting the adoption, amendment or repeal of a regulation. Such petition shall state clearly and concisely:

(1) The substance and nature of the regulation, amendment or repeal requested;

(2) The reason for the request; and

(3) Reference to the authority of the commission to take the action requested.

Upon receipt of the petition, the commission shall schedule the matter for hearing within 90 days and shall render a decision within 30 days after the completion of said hearing.

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

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or the use or design of gaming equipment for an experimental period not to exceed 90 days for the purpose of determining whether such rule should be adopted on a permanent basis in accordance with the requirements of this section. Any rules experiment authorized by this subsection shall be conducted under such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L. 1975, c. 231 (C. 10:4-8), at least seven days prior to the initiation of the experimental period and shall

be prominently posted in each casino participating in the experiment. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of a rules experiment initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be posted in each casino participating in the experiment and shall be available upon request from the commission. In no case shall any temporary rule authorize the use or operation of any game not authorized by the Legislature.

8. Section 74 of P.L. 1977, c. 110 (C. 5:12-74) is amended to read as follows:

C. 5:12-74 Minutes and records.

74. Minutes and Records. a. The commission shall cause to be made and kept a verbatim record of all proceedings held at public meetings of the commission, which record shall be open to public inspection.

A true copy of the minutes of every meeting of the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the executive secretary, to the Governor, the Secretary of the Senate, and the Clerk of the General Assembly.

b. The commission shall keep and maintain a list of all applicants for licenses and registrations under this act together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after five years from the date of such action.

c. The commission shall maintain such other files and records as may be deemed desirable.

d. Except as provided in subsection h. of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified in section 99a. of this act or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

e. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and may be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

f. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection d. or e. of this section, may be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

g. Files, records, reports and other information in the possession of the New Jersey Division of Taxation pertaining to licensees shall be made available to the commission and the division as may be necessary to the effective administration of this act.

h. The following information to be reported periodically to the commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:

(1) A licensee's gross revenue from all authorized games as herein defined;

(2)(a) The dollar amount of patron checks initially accepted by a licensee, (b) the dollar amount of patron checks deposited to the licensee's bank account, (c) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as "uncollected," and (d) the dollar amount ultimately uncollected after all reasonable efforts;

(3) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to section 144 of P.L. 1977, c. 110 (C. 5:12-144) and section 3 of P.L. 1984, c. 218 (C. 5:12-144.1);

(4) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to section 144 of P.L. 1977, c. 110 (C. 5:12-144) and section 3 of P.L. 1984, c. 218 (C. 5:12-144.1);

(5) The amount, if any, of tax in lieu of full local real property tax paid pursuant to section 146, and the amount of profits, if any, recaptured pursuant to section 147;

(6) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to section 147; and

(7) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the State of New Jersey.

Nothing in this subsection shall be construed to limit access by the public to those forms and documents required to be filed pursuant to Article 11 of this act.

9. 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.

10. Section 86 of P.L. 1977, c. 110 (C. 5:12-86) is amended to read as follows:

C. 5:12-86 Casino license—disqualification criteria.

86. Casino License—Disqualification Criteria. The commission shall deny a casino license to any applicant who is disqualified on the basis of any of the following criteria:

a. Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this act;

b. Failure of the applicant to provide information, documentation and assurances required by the act or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

c. The conviction of the applicant, or of any person required to be qualified under this act as a condition of a casino license, of any offense in any jurisdiction which would be:

(1) Any of the following offenses under the "New Jersey Code of Criminal Justice," P.L. 1978, c. 95 (Title 2C of the New Jersey Statutes) as amended and supplemented:

all crimes of the first degree;

N.J.S. 2C:5-1 (attempt to commit an offense which is listed in this subsection);

N.J.S. 2C:5-2 (conspiracy to commit an offense which is listed in this subsection);

N.J.S. 2C:11-4b. (manslaughter);

N.J.S. 2C:12-1b. (aggravated assault which constitutes a crime of the second or third degree);

N.J.S. 2C:13-1 (kidnapping);

N.J.S. 2C:14-1 et seq. (sexual offenses which constitute crimes of the second or third degree);

N.J.S. 2C:15-1 (robberies);

N.J.S. 2C:17-1a. and b. (crimes involving arson and related offenses);

N.J.S. 2C:17-2a. and b. (causing or risking widespread injury or damage);

N.J.S. 2C:18-2 (burglary which constitutes a crime of the second degree);

N.J.S. 2C:20-1 et seq. (theft and related offenses which constitute crimes of the second or third degree);

N.J.S. 2C:21-1 et seq. (forgery and fraudulent practices which constitute crimes of the second or third degree);

N.J.S. 2C:21-4a. (falsifying or tampering with records);

N.J.S. 2C:21-14 (receiving deposits in a failing financial institution);

N.J.S. 2C:27-1 et seq. (bribery and corrupt influence);

N.J.S. 2C:28-1 et seq. (perjury and other falsification in official matters which constitute crimes of the second, third or fourth degree);

N.J.S. 2C:30-2 and N.J.S. 2C:30-3 (misconduct in office and abuse in office which constitutes a crime of the second degree);

N.J.S. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance or a controlled dangerous substance analog which constitutes a crime of the second or third degree);

N.J.S. 2C:35-6 (employing a juvenile in a drug distribution scheme);

N.J.S. 2C:35-11 (distribution, possession or manufacture of imitation controlled dangerous substances);

N.J.S. 2C:35-13 (acquisition of controlled dangerous substances by fraud);

N.J.S. 2C:37-1 et seq. (gambling offenses which constitute crimes of third or fourth degree);

N.J.S. 2C:37-7 (possession of a gambling device); or

(2) Any other offense under present New Jersey or federal law which indicates that licensure of the applicant would be inimical to the policy of this act and to casino operations; provided, however, that the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the 10-year period immediately preceding application for licensure and which the applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement or sealing;

d. Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this act as a condition of a casino license, for any of the offenses enumerated in subsection c. of this section; provided, however, that at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

e. The pursuit by the applicant or any person who is required to be qualified under this act as a condition of a casino license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, if such pursuit creates a reasonable belief that the participation of such person in casino operations would be inimical to the policies of this act or to legalized gaming in this State. For purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;

f. The identification of the applicant or any person who is required to be qualified under this act as a condition of a casino license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this act and to gaming operations. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

g. The commission by the applicant or any person who is required to be qualified under this act as a condition of a casino license of any act or acts which would constitute any offense under subsection c. of this section, even if such conduct has not or may not be prosecuted under the criminal laws of this State; and

h. Contumacious defiance by the applicant or any person who is required to be qualified under this act of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity.

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

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

88. Renewal of Casino Licenses. a. Subject to the power of the commission to deny, revoke, or suspend licenses, any casino license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the

commission. The license period for a renewed casino license shall be one year for the first two renewal periods succeeding the initial issuance of a casino license pursuant to section 87 of P.L. 1977, c. 110 (C. 5:12-87). Thereafter, a casino license shall be renewed for a period of two years, but the commission may reopen licensing hearings at any time. In addition, the commission shall reopen licensing hearings at any time at the request of the Division of Gaming Enforcement in the Department of Law and Public Safety. Notwithstanding the foregoing, the commission may, for the purpose of facilitating its administration of this act, renew the casino license of the holders of licenses initially opening after January 1, 1981 for a period of one year; provided, however, the renewal period for those particular casino licenses may not be adjusted more than once pursuant to this provision. The commission shall act upon any such application prior to the date of expiration of the current license.

b. Application for renewal shall be filed with the commission no later than 120 days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license.

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

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

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

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

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

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

ing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

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

(3) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the reasonable likelihood of success and efficiency in the particular position involved.

(4) Each applicant shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license; provided,

however, that upon petition by the holder of a casino license, the commission may waive this residency requirement for any applicant whose particular position will require him to be employed outside the State.

The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

c. The commission shall endorse upon any license issued hereunder the particular positions as defined by this act or by regulation which the licensee is qualified to hold.

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

e. Upon petition by the holder of a casino license, the commission may, no earlier than 30 days after the date of the petition, issue a temporary license to an applicant for a casino key employee license, provided that:

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

(2) The division certifies to the commission that the complete casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 30 days;

(3) The information provided by the applicant indicates that the applicant meets the requirements of subsection b.(3) of this section;

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

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

In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), (3), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operation of the casino.

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

13. Section 90 of P.L. 1977, c. 110 (C. 5:12-90) is amended to read as follows:

C. 5:12-90 Licensing of casino employees.

90. Licensing of Casino Employees. a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section; except that the standards for business ability and casino experience may be satisfied by a showing of casino job experience and knowledge of the provisions of this act and regulations pertaining to the particular position involved, or by successful completion of a course of study at a licensed school in an approved curriculum.

c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. The commission shall endorse upon any license issued hereunder the particular positions as defined by regulation which the licensee is qualified to hold.

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

f. For the purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.

g. A temporary license may be issued by the commission to casino employees for positions not directly related to gaming activity if, in its judgment, the issuance of a plenary license will be restricted by necessary investigations and said temporary licensing of the applicant is necessary for the operation of the casino. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire six months from the date of its issuance and be renewable, at the discretion of the commission, for one additional six month period. Positions "directly related to gaming activity" shall include, but not be limited to, boxmen, floormen, dealers or croupiers, cage personnel, count room personnel, slot and slot booth personnel, credit and collection personnel, casino surveillance personnel, and casino security employees whose employment duties require or authorize access to the casino.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L. 1977, c. 110 (C. 5:12-86), as specified in subsection g. of that section; provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the position applied for;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;

(5) The age of the applicant when the offense or conduct was committed;

(6) Whether the offense or conduct was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense or conduct;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

14. Section 91 of P.L. 1977, c. 110 (C. 5:12-91) is amended to read as follows:

C. 5:12-91 Registration of casino hotel employees.

91. Registration of Casino Hotel Employees. a. No person may commence employment as a casino hotel employee unless he has been registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino hotel employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino hotel employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P.L. 1977, c. 110 (C. 5:12-86).

c. The commission may, by regulation, require that all applicants for casino hotel employee registration be residents of this State for a period not to exceed three months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section no casino hotel employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.

1977, c. 110 (C. 5:12-86), as specified in subsection g. of that section, provided that the registrant has affirmatively demonstrated his rehabilitation. In determining whether the registrant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the registrant's position;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the registrant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense or conduct;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the registrant under their supervision.

e. The commission may waive any disqualification criterion for a casino hotel employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license, casino hotel employee registration shall be granted to each applicant for casino hotel employee registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino hotel employee registration as required by the commission.

Any person who, on the effective date of this amendatory act, possesses a current and valid temporary or plenary casino hotel employee license, or has a completed application for such licensure pending before the commission, shall be considered registered in accordance with the provisions of this section.

15. Section 94 of P.L. 1977, c. 110 (C. 5:12-94) is amended to read as follows:

C. 5:12-94 Approval and denial of registrations and licenses other than casino licenses.

94. Approval and Denial of Registrations and Licenses Other Than Casino Licenses. a. Upon the filing of an application for any license or registration required by this act, other than a casino license, and after submission of such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license or registration.

b. After such investigation, the commission may either deny the application or grant a license to or accept the registration of an applicant whom it determines to be qualified to hold such license or registration.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file its order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of fact.

d. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest. Licenses shall be granted and registrations approved for a term of one year; provided, however, that: (1) all casino employee licenses, gaming school resident director, instructor, principal employee and sales representative licenses, casino service industry licenses issued pursuant to subsection c. of section 92 of P.L. 1977, c. 110 (C. 5:12-92c.), and junket representative and junket enterprise licenses issued pursuant to section 102 of P.L. 1977, c. 110 (C. 5:12-102) shall be granted for a term of three years; (2) casino hotel employee registration shall remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission in accordance with the provisions of P.L. 1977, c. 110 (C. 5:12-1 et seq.); and (3) after the first two renewal periods succeeding the issuance of a casino key employee license or of a casino service industry license required pursuant to subsection a. of section 92 of P.L. 1977, c. 110 (C. 5:12-92), the license term shall be for two years, but the commission shall reconsider the granting of such a license at any time at the request of the Division of Gaming Enforcement in the Department of Law and Public Safety.

Notwithstanding the provisions of paragraph (3) of this subsection, the commission may, for the purpose of avoiding the renewal in the same year of all the licenses existing on the effective date of this 1987 amendatory act which are affected by that paragraph, renew an appropriate number of those licenses for a term of one year, but the renewal period for those licenses may not be adjusted more than once pursuant to this provision.

e. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

16. Section 95 of P.L. 1977, c. 110 (C. 5:12-95) is amended to read as follows:

C. 5:12-95 Renewal of licenses and registrations.

95. Renewal of Licenses and Registrations. Subject to the power of the commission to deny, revoke or suspend any license or registration, any license other than a casino license or any registration may be renewed upon proper application for renewal and the payment of fees in accordance with the rules of the commission, but in no event later than the date of expiration of the current license or registration.

17. Section 96 of P.L. 1977, c. 110 (C. 5:12-96) is amended to read as follows:

C. 5:12-96 Operation certificate.

96. Operation Certificate. a. Notwithstanding the issuance of a license therefor, no casino may be opened or remain open to the public, and no gaming activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the casino licensee by the commission. Such certificate shall be issued by the commission upon a finding that a casino complies in all respects with the requirements of this act and regulations promulgated hereunder, that the casino licensee has implemented necessary management controls and security precautions, that casino personnel are properly trained and licensed for their respective responsibilities, and that the casino is prepared in all respects to receive the public.

b. The operation certificate shall include a statement of compliance with subsection a. of this section and an itemized list by category and number of the authorized games permitted in the particular casino establishment.

c. A casino licensee shall notify the commission in advance of any proposed change in the number of authorized games to be played in a particular casino, and shall request the issuance of an operation certificate which permits such changes to occur. The commission shall issue a revised operation certificate unless it finds that the planned change in authorized games does not conform to the requirements of this act or regulations promulgated hereunder, or that there has been a change of circumstances in the casino or with respect to the casino licensee materially affecting compliance with subsection a. of this section.

d. An operation certificate shall remain in force and effect unless altered in accordance with subsection c. of this section, or revoked, suspended, limited, or otherwise altered by the commission in accordance with this act.

e. It shall be an express condition of continued operation under this act that a casino licensee shall maintain all books, records, and documents pertaining to the licensee's operations and approved hotel in a manner and location within this State approved by the commission. All such books, records and documents shall be immediately available for inspection during all hours of operation in accordance with the rules of the commission and shall be maintained for a period of seven years or such other period of time as the commission shall require.

18. Section 99 of P.L. 1977, c. 110 (C. 5:12-99) is amended to read as follows:

C. 5:12-99 Internal controls.

99. Internal Controls. a. Each casino licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls. Such submission shall be made at least 120 days before gaming operations are to commence or at least 90 days before changes in previously submitted control plans are to become effective, unless otherwise directed by the commission. Each such submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the casino, including, but not limited to:

(1) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages, revenue drop, expense and over-

head schedules, complimentary services, junkets, cash equivalent transactions, salary structure and personnel practices;

(3) Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in casino operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;

(4) Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming; the cashing of checks; the redemption of chips and other cash equivalents used in gaming; the pay-off of jackpots; and the recording of transactions pertaining to gaming operations;

(5) Procedures for the collection and security of moneys at the gaming tables;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of chips and other cash equivalents utilized in the gaming operation;

(10) Procedures for the transfer of moneys or chips from and to the slot machines;

(11) Procedures and standards for the opening and security of slot machines;

(12) Procedures for the payment and recordation of slot machine jackpots;

(13) Procedures for the cashing and recordation of checks exchanged by casino patrons;

(14) Procedures governing the utilization of the private security force within the casino;

(15) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

(16) Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto; and

(17) Procedures for separately recording all transactions pursuant to section 101 of this act involving the Governor, any State officer or employee, or any special State officer or employee, any member of the Judiciary, any member of the Legislature, or any officer of a municipality or county in which casino gaming is authorized, and for the quarterly filing with the Attorney General of a list reporting all such transactions.

b. The commission shall review each submission required by subsection a. hereof, and shall determine whether it conforms to the requirements of this act and to the regulations promulgated thereunder and whether the system submitted provides adequate and effective controls for the operations of the particular casino submitting it. If the commission finds any insufficiencies, it shall specify same in writing to the casino licensee, who shall make appropriate alterations. When the commission determines a submission to be adequate in all respects, it shall notify the casino licensee of same. No casino licensee shall commence gaming operations, or alter in fact its internal controls, unless and until such system of controls is approved by the commission. Except for submissions pending on the effective date of this 1987 amendatory act, the commission shall make a determination concerning a submission for changes in previously submitted control plans no later than 90 days following receipt of the submission unless the commission and the casino licensee agree to extend the period for making such a determination. If there is no determination made within 90 days and there is no agreement to extend the period for making such a determination, then the submission shall be deemed to be approved.

19. Section 107 of P.L. 1977, c. 110 (C. 5:12-107) is amended to read as follows:

C. 5:12-107 Conduct of hearings; rules of evidence; punishment of contempts; rehearing.

107. Conduct of Hearings; Rules of Evidence; Punishment of Contempts; Rehearing.

a. At all hearings of the commission in contested cases, as defined in section 2 of P.L. 1968, c. 410 (C. 52:14B-2):

(1) Unless the commission hears the matter directly, the chairman shall refer the matter to the Office of Administrative Law in

accordance with P.L. 1978, c. 67 (C. 52:14F-1 et seq.); provided, however, that the chairman may, in his discretion, designate a member of the commission to serve as hearing examiner in a particular matter;

(2) The proceedings at the hearing shall be recorded or transcribed;

(3) Oral evidence shall be taken only upon oath or affirmation;

(4) Each party to a hearing shall have the right to call and examine witnesses; to introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the commission; to cross-examine opposing witnesses in any matters relevant to the issue of the case; to impeach any witness, regardless of which party called him to testify; and to offer rebuttal evidence;

(5) If an applicant, licensee, registrant or person who shall be qualified pursuant to this act is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination;

(6) The hearing shall not be conducted according to rules relating to the admissibility of evidence in courts of law. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action; and

(7) The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection.

b. The commission may take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of any other fact which may be judicially noticed by the courts of this State. The parties shall be informed of any information, matters or facts so noticed and shall be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the commission. The commission may, in its discretion, before rendering its decision, permit the filing of amended or supplemental pleadings and shall notify all

parties thereof and provide a reasonable opportunity for objections thereto.

c. If any person in proceedings before the commission disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct at the hearing or so near the place thereof as to obstruct the proceeding, the person may be punished for contempt in accordance with the Rules of Court if the commission certifies the facts underlying the contumacious behavior to the Superior Court. Thereafter, the courts shall have jurisdiction in the matter, and the same proceeding shall be had, the same penalties may be imposed, and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed contempt in the trial of a civil action before the Superior Court.

d. (1) The commission may, upon motion therefor made within 10 days after the service of the decision and order, order a rehearing before the commission upon such terms and conditions as it may deem just and proper when the commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy or factual matters advanced by the moving party or raised by the commission on its own motion.

(2) Upon motion made within a reasonable time, but in no event later than one year from the service of the decision and order, the commission may relieve a party from the decision and order upon a showing that there is additional evidence which is material and necessary and which would be reasonably likely to change the decision of the commission, and that sufficient reason existed for failure to present such evidence at the hearing of the commission or on a motion under paragraph (1) of this subsection. The motion shall be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the additional evidence and the reason why it was not presented at the hearing or on a motion under paragraph (1) of this subsection. Upon rehearing, rebuttal evidence to the additional evidence shall be admitted. After rehearing, the commission may modify its decision and order as the additional evidence may warrant.

(3) A motion for relief from a decision and order which is based on any ground other than the presentation of newly discovered evidence shall be governed as to both timeliness and sufficiency by

the regulations of the commission which shall be modeled, to the extent practical, upon the rules then governing similar motions before the courts of this State.

20. Section 141 of P.L. 1977, c. 110 (C. 5:12-141) is amended to read as follows:

C. 5:12-141 Fees for other than casino licenses.

141. Fees for Other Than Casino Licenses. The commission shall, by regulation, establish fees for the investigation and consideration of applications for the issuance and renewal of registrations and licenses other than casino licenses, which fees shall be payable by the applicant, licensee or registrant.

21. Section 149 of P.L. 1977, c. 110 (C. 5:12-149) is amended to read as follows:

C. 5:12-149 Determination of tax liability.

149. Determination of Tax Liability. If a return or deposit required by section 145 with regard to obligations imposed by subsection a. of section 144 of P.L. 1977, c. 110 (C. 5:12-144) is not filed or paid, or if a return or deposit when filed or paid is incorrect or insufficient in the opinion of the commission, the amount of tax due or deposit shall be determined by an audit of the casino licensee's books and records performed by the commission. Notice of such determination shall be given to the licensee liable for the payment of the tax or deposit. 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 commission for a hearing, or unless the commission on its own motion shall redetermine the same. After such hearing the commission shall give notice of its determination to the person against whom the tax is assessed.

22. Section 150 of P.L. 1977, c. 110 (C. 5:12-150) is amended to read as follows:

C. 5:12-150 Penalties.

150. Penalties. a. Any licensee who shall fail to file his return when due or to pay any tax or deposit 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 State Treasurer determines that the failure to comply with any provision of this Article was excusable under the circumstances, he may remit such part or all of the penalty as shall be appropriate under such circumstances.

b. Any person failing to file a return, failing to pay the tax or deposit, 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 misdemeanor and subject to not more than three years' imprisonment or a fine of \$100,000.00 or both.

c. Except as to those determinations required to be made by the commission pursuant to section 149 of P.L. 1977, c. 110 (C. 5:12-149), the certificate of the State Treasurer to the effect that a tax or deposit 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.

d. If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

23. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 355

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

C. 5:12-9 Casino key employee.

9. "Casino Key Employee"—Any natural person employed in the operation of a licensed casino in a supervisory capacity or empowered to make discretionary decisions which regulate casino operation, including, without limitation, pit bosses; shift bosses; credit executives; casino cashier supervisors; casino managers and assistant managers;

and managers or supervisors of casino security employees; or any other natural person empowered to make discretionary decisions which regulate the management of an approved hotel, including, without limitation, hotel managers; entertainment directors; and food and beverage directors; or any other employee so designated by the Casino Control Commission for reasons consistent with the policies of this act.

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

C. 5:12-12 Casino service industry.

12. "Casino Service Industry"—Any form of enterprise which provides casino applicants or licensees with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility on a regular or continuing basis, including, without limitation, security businesses, gaming schools, manufacturers, distributors and servicers of gaming devices or equipment, garbage haulers, maintenance companies, food purveyors, and construction companies. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S. 2C:37-7, shall be considered a casino service industry for the purposes of this act regardless of the nature of its business relationship, if any, with licensed casinos in this State.

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

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

C. 5:12-45 Slot machine.

45. "Slot machine"—Any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or any thing of value whatsoever,

whether the payoff is made automatically from the machine or in any other manner whatsoever, except that: 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.

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

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

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

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

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

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

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

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

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

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

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved hotel building or the land thereunder who does not own or lease the entire approved hotel building shall not be eligible to hold or required to hold a casino license;

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

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

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

ing or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

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

(7) As to agreements for the management of a casino, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of the casino, provide for the sale and unrestricted power to direct the casino operations of the casino which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino;

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

(9) As to agreements to lease an approved hotel building or the land thereunder, agreements to jointly own an approved hotel building or the land thereunder and agreements for the management of a casino, the commission shall require that each party thereto shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

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

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

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

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

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

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey;

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

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

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such nonpublicly traded corporations and companies to repurchase at the market price

or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

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

(10) Any nonpublicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraph (8) for a nonpublicly traded corporation to be eligible to apply for a casino license.

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

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

e. No person shall be issued or be the holder of more than three casino licenses. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

5. Section 92 of P.L. 1977, c. 110 (C. 5:12-92) is amended to read as follows:

C. 5:12-92 Licensing and registration of casino service industries.

92. Licensing and Registration of Casino Service Industries.

a. (1) All casino service industries offering goods or services which directly relate to casino or gaming activity, including gaming equipment manufacturers, suppliers and repairers, schools teaching gaming and either playing or dealing techniques, and casino security services, shall be licensed in accordance with the provisions of this

act prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with such casino applicant or licensee prior to the licensure of that service industry applicant under this subsection.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry intending to manufacture, sell, distribute or repair slot machines within New Jersey, other than antique slot machines as defined in N.J.S. 2C:37-7, shall be licensed in accordance with the provisions of this act prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with the casino applicant or licensee prior to the licensure of that service industry applicant under this subsection; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry pursuant to this paragraph, the commission may permit the service industry applicant to initiate the manufacture of slot machines or engage in the sale, distribution or repair of slot machines with any person other than a casino applicant or licensee, its employees or agents, prior to the licensure of that service industry applicant under this subsection.

b. Each casino service industry in subsection a. of this section, as well as its owners, management and supervisory personnel and other principal employees must qualify under the standards, except residency, established for qualification of a casino key employee under this act. In addition, if the business or enterprise is a school teaching gaming and either playing or dealing techniques, each resident director, instructor, principal employee, and sales representative employed thereby shall be licensed under the standards established for qualification of a casino employee under this act; provided, however, that nothing in this subsection shall be deemed to require, in the case of a public school district or a public institution of higher education, the licensure or qualification of any individuals except those instructors and other principal employees responsible for the teaching of playing or dealing techniques. The commission, in its discretion, may issue a temporary license to an applicant for an

instructor's license upon a finding that the applicant meets the educational and experiential requirements for such license, that the issuance of a permanent license will be restricted by necessary investigations, and that temporary licensing is necessary for the operation of the gaming school. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire six months from the date of its issuance and be renewable, at the discretion of the commission, for one additional six-month period.

c. All casino service industries not included in subsection a. of this section shall be licensed in accordance with rules of the commission prior to commencement or continuation of any business with a casino applicant or licensee or its employees or agents. Such casino service industries, whether or not directly related to gaming operations, shall include suppliers of alcoholic beverages, food and nonalcoholic beverages; garbage handlers; vending machine providers; linen suppliers; maintenance companies; shopkeepers located within the approved hotels; limousine services and construction companies contracting with casino applicants or licensees or their employees or agents. The commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates (1) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and (2) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this act. Upon granting an exemption or at any time thereafter, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the commission and the division and, upon request, to provide information in the same manner as required of a casino service industry licensed pursuant to this subsection; provided, however, that no exemption be granted unless the casino service industry complies with the requirements of sections 134 and 135 of this act.

d. Licensure pursuant to subsection c. of this section of any casino service industry may be denied to any applicant disqualified in accordance with the criteria contained in section 86 of this act.

6. Section 93 of P.L. 1977, c. 110 (C. 5:12-93) is amended to read as follows:

C. 5:12-93 Registration of labor organizations.

93. Registration of Labor Organizations. a. Each labor organization, union or affiliate seeking to represent employees licensed or

registered under this act and employed by a casino hotel or a casino licensee shall register with the commission annually, and shall disclose such information to the commission as the commission may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U.S.C. §431 et seq. or §1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the commission pursuant to the aforesaid federal provisions. The commission may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subsection where the commission finds that such organization, union or affiliate is not the certified bargaining representative of any employee licensed or registered under this act, is not involved actively, directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

b. No person may act as an officer, agent or principal employee of a labor organization, union or affiliate registered or required to be registered pursuant to this section and representing or seeking to represent employees licensed or registered under P.L. 1977, c. 110 (C. 5:12-1 et seq.) if the person has been found disqualified by the commission in accordance with the criteria contained in section 86 of that act. The commission may, for purposes of this subsection, waive any disqualification criterion consistent with the public policy of this act and upon a finding that the interests of justice so require.

c. Neither a labor organization, union or affiliate nor its officers and agents not otherwise individually licensed or registered under this act and employed by a casino licensee may hold any financial interest whatsoever in the casino hotel or casino licensee whose employees they represent.

d. Any person, including any labor organization, union or affiliate, who shall violate, aid and abet the violation, or conspire or attempt to violate this section is guilty of a crime of the fourth degree.

e. The commission or the division may maintain a civil action and proceed in a summary manner, without posting bond, against any person, including any labor organization, union or affiliate, to compel compliance with this section, or to prevent any violations,

the aiding and abetting thereof, or any attempt or conspiracy to violate this section.

f. In addition to any other remedies provided in this section, a labor organization, union or affiliate registered or required to be registered pursuant to this section and representing or seeking to represent employees licensed or registered under P.L. 1977, c. 110 (C. 5:12-1 et seq.) may be prohibited by the commission from receiving any dues from any employee licensed or registered under that act and employed by a casino licensee or its agent, if any officer, agent or principal employee of the labor organization, union or affiliate has been found disqualified and if such disqualification has not been waived by the commission in accordance with subsection b. of this section. The commission or the division may proceed in the manner provided by subsection e. of this section to enforce an order of the commission prohibiting the receipt of dues.

g. Nothing contained in this section shall limit the power of the commission to proceed in accordance with subsection c. of section 107 of P.L. 1977, c. 110 (C. 5:12-107).

7. 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.

Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel complex; provided such equipment is used for nongaming purposes.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from the casino room, or 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 or minibaccarat table for every 50,000 square feet of casino space or part thereof; and

(2) 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.

8. Section 104 of P.L. 1977, c. 110 (C. 5:12-104) is amended to read as follows:

C. 5:12-104 Casino licensee—leases and contracts.

104. Casino Licensee—Leases and Contracts. a. (1) Unless otherwise provided in this subsection, no agreement which provides for the payment, however defined, of any direct or indirect interest, percentage or share of any money or property gambled at a casino or derived from casino gaming activity or of any such interest, percentage, or share of any revenues, profits or earnings of a casino shall be lawful.

(2) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing and which are in writing and have been filed with the commission shall be lawful and effective only if expressly approved as to their terms by the commission.

(4) Agreements to lease an approved hotel building or the land thereunder and agreements for the complete management of a casino shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the casino licensee shall be in writing and filed with the commission but shall not be subject to the provisions of this subsection.

b. Each casino applicant or licensee shall maintain, in accordance with the rules of the commission, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility. The foregoing obligation shall apply regardless of whether the casino applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the commission on the basis of the reasonableness of its terms, including the terms of compensation, and

of the qualifications of the owners, officers, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section 86 of this act. If the commission disapproves such an agreement or the owners, officers, or directors of any enterprise involved therein, the commission may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement pursuant to this subsection, such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with commission regulations, or the disapproved agreement is not terminated, the commission may pursue any remedy or combination of remedies provided in this act.

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

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

9. Section 105 of P.L. 1977, c. 110 (C. 5:12-105) is amended to read as follows:

C. 5:12-105 Disposition of securities by corporate licensee.

105. Disposition of Securities by Corporate Licensee. a. The sale, assignment, transfer, pledge or other disposition of any security issued by a corporation which holds a casino license is conditional and shall be ineffective if disapproved by the commission.

b. Every security issued by a corporation which holds a casino license shall bear, on both sides of the certificate evidencing such security, a statement of the restrictions imposed by this section, except that in the case of a publicly traded corporation incorporated prior to the effective date of this act, a statement of restriction shall

be necessary only insofar as certificates are issued by such corporation after the effective date of this act.

c. The Secretary of State shall not accept for filing any articles of incorporation of any corporation which includes as a stated purpose the conduct of casino gaming, or any amendment which adds such purpose to articles of incorporation already filed, unless such articles or amendments have been approved by the commission and a copy of such approval is annexed thereto upon presentation for filing with the Secretary of State.

d. If at any time the commission finds that an individual owner or holder of any security of a corporate licensee or of a holding or intermediary company with respect thereto is not qualified under this act, and if as a result the corporate licensee is no longer qualified to continue as a casino licensee in this State, the commission shall, pursuant to the provisions of this act, propose any necessary action to protect the public interest, including the suspension or revocation of the casino license of the corporation; provided, however, that if the holding or intermediary company is a publicly traded corporation and the commission finds disqualified any holder of any security thereof who is required to be qualified under section 85 d. of this act, and the commission also finds that: (1) the holding or intermediary company has complied with the provisions of section 82 d. (7) of this act; (2) the holding or intermediary company has made a good faith effort, including the prosecution of all legal remedies, to comply with any order of the commission requiring the divestiture of the security interest held by the disqualified holder; and (3) such disqualified holder does not have the ability to control the corporate licensee or any holding or intermediary company with respect thereto, or to elect one or more members of the board of directors of such corporation or company, the commission shall not take action against the casino licensee or the holding or intermediary company with respect to the continued ownership of the security interest by the disqualified holder. For purposes of this act, a security holder shall be presumed to have the ability to control a publicly traded corporation, or to elect one or more members of its board of directors, if such holder owns or beneficially holds 5% or more of securities of such corporation, unless such presumption of control or ability to elect is rebutted by clear and convincing evidence.

e. Commencing on the date the commission serves notice upon a corporation of the determination of disqualification under subsection d. of this section, it shall be unlawful for the named individual:

- (1) To receive any dividends or interest upon any such securities;
- (2) To exercise, directly or through any trustee or nominee, any right conferred by such securities; or
- (3) To receive any remuneration in any form from the corporate licensee for services rendered or otherwise.

f. After a nonpublicly traded corporation has been issued a casino license pursuant to the provisions of this act, but prior to the issuance or transfer of any security to any person required to be but not yet qualified in accordance with the provisions of this act, such corporation shall file a report of its proposed action with the commission, and shall request the approval of the commission for the transaction. If the commission shall deny the request, the corporation shall not issue or transfer such security. After a publicly traded corporation has been issued a casino license, such corporation shall file a report quarterly with the commission, which report shall list all owners and holders of any security issued by such corporate casino licensee.

g. Each corporation which has been issued a casino license pursuant to the provisions of this act shall file a report of any change of its corporate officers or members of its board of directors with the commission. No officer or director shall be entitled to exercise any powers of the office to which he was so elected or appointed until qualified by the commission in accordance with the provisions of this act.

10. Section 131 of P.L. 1977, c. 110 (C. 5:12-131) is amended to read as follows:

C. 5:12-131 Declaration of State's limited exemption from operation of provisions of 15 U.S.C. (1172).

131. Declaration of State's Limited Exemption from Operation of Provisions of 15 U.S.C. (1172).

Pursuant to section 2 of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. (1171-1177), the State of New Jersey, acting by and through the duly elected and qualified members of its Legislature, does hereby, in accordance with and in compliance with the provisions of section 2 of said Act of Congress, declare and proclaim that section 2 of that Act of Congress shall not apply to any gambling device in this State where the transportation of such a device is specifically authorized by and done in compliance with the provisions of P.L. 1977, c. 110

(C. 5:12-1 et seq.), any other applicable statute of this State, and any regulations promulgated pursuant thereto, and that any such gambling device transported in compliance with State law and regulations shall be exempt from the provisions of that Act of Congress.

11. This act shall take effect immediately.

Approved January 4, 1988.

CHAPTER 356

AN ACT concerning various provisions of the "Prevention of Domestic Violence Act," and establishing a Statewide contempt procedure, amending and supplementing P.L. 1981, c. 426 and amending N.J.S. 2C:29-9.

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

1. Section 5 of P.L. 1981, c. 426 (C. 2C:25-5) is amended to read as follows:

C. 2C:25-5 Conditions for arrest.

5. a. A law enforcement officer shall arrest a person if a victim exhibits signs of injury caused by an act of domestic violence.

b. A law enforcement officer may arrest a person:

(1) When the officer has probable cause to believe that a person has violated the terms of an order issued pursuant to section 10, 11, 13 or 14 of this act and that service has been effected either in person or by substituted service. The officer may verify, if necessary, the existence of an order with the appropriate law enforcement agency; or

(2) When there is other probable cause to believe that an act of domestic violence has been committed.

2. Section 8 of P.L. 1981, c. 426 (C. 2C:25-8) is amended to read as follows:

C. 2C:25-8 Domestic violence offense report.

8. a. It shall be the duty of a law enforcement officer who responds to a domestic violence call to complete a domestic violence offense report. All information contained in the domestic violence

offense report shall be forwarded to the appropriate county bureau of identification and to the State bureau of records and identification in the Division of State Police in the Department of Law and Public Safety. A copy of the domestic violence offense report shall be forwarded to the municipal court where the offense was committed unless the case has been transferred to the Superior Court.

b. The domestic violence offense report shall be on a form prescribed by the supervisor of the State bureau of records and identification which shall include, but not limited to, the following information:

- (1) The relationship of the parties;
- (2) The sex of the parties;
- (3) The time and date of the incident;
- (4) The number of domestic violence calls investigated;
- (5) Whether children were involved, or whether the alleged act of domestic violence had been committed in the presence of children;
- (6) The type and extent of abuse;
- (7) The number and type of weapons involved;
- (8) The action taken by the law enforcement officer;
- (9) The existence of any prior court orders issued pursuant to section 10, 11, 13 or 14 of this act concerning the parties; and
- (10) Any other data that may be necessary for a complete analysis of all circumstances leading to the alleged incident of domestic violence.

c. It shall be the duty of the Superintendent of the State Police with the assistance of the Division of Systems and Communications in the Department of Law and Public Safety to compile and report annually to the Governor, the Legislature and the Advisory Council on Shelters for Victims of Domestic Violence on the tabulated data from the domestic violence offense reports.

3. Section 12 of P.L. 1981, c. 426 (C. 2C:25-12) is amended to read as follows:

C. 2C:25-12 Filing of complaint.

12. a. A victim may file a complaint alleging the commission of an act of domestic violence with the Family Part of the Chancery Division of the Superior Court in conformity with the rules of court.

The court shall not dismiss any complaint or delay disposition of a case because the victim has left the residence to avoid further incidents of domestic violence. Filing a complaint pursuant to this section shall not prevent the filing of a criminal complaint for the same act.

b. The court shall waive any requirement that the petitioner's place of residence appear on the complaint.

c. The clerk of the court, or other person designated by the court, shall assist the parties in completing any forms necessary for the filing of a summons, complaint, answer or other pleading.

d. Summons and complaint forms shall be readily available at the clerk's office and at the municipal courts.

e. As soon as the domestic violence complaint is filed, both the victim and the abuser shall be advised of any programs or services available for advice and counseling.

4. Section 13 of P.L. 1981, c. 426 (C. 2C:25-13) is amended to read as follows:

C. 2C:25-13 Hearing; relief orders.

13. a. A hearing shall be held in the Family Part of the Chancery Division of the Superior Court within 10 days of the filing of a complaint pursuant to section 12 of this act. A copy of the complaint shall be served on the defendant in conformity with the rules of court. If a criminal complaint arising out of the same incident which is the subject matter of a complaint brought under P.L. 1981, c. 426 (C. 2C:25-1 et seq.) is filed, notice of any hearing on the complaint shall be given to the prosecuting attorney so that he may be heard with respect to a stay of that proceeding pending disposition of the criminal proceeding. At the hearing the standard for proving the allegations in the complaint shall be by a preponderance of the evidence. The court shall consider but not be limited to the following factors:

- (1) The previous history of domestic violence between the cohabitants including threats, harassment and physical abuse;
- (2) The existence of immediate danger to person or property;
- (3) The financial circumstances of the cohabitants;
- (4) The best interests of the victim and the child;
- (5) In determining custody and visitation the protection of the victim's safety; and

(6) Whether the application was made in a reasonable time after the alleged act of domestic violence occurred.

b. At the hearing the judge of the Family Part of the Chancery Division of the Superior Court may issue an order granting any or all of the following relief:

(1) An order prohibiting the defendant from having contact with the victim including, but not limited to, restraining the defendant from entering the plaintiff's residence, place of employment or business, or school. The court shall prohibit the defendant from harassing the plaintiff or plaintiff's relatives in any way;

(2) An order granting possession to the plaintiff of the residence to the exclusion of the defendant when the residence or household is jointly owned or leased by the parties; provided that this issue has not been resolved nor is being litigated between the parties in another action. The court may amend its order at any time upon petition by either party;

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is sole owner or lessee of the residence, an order granting possession to the plaintiff of the residence or household to the exclusion of the defendant may be issued or, upon consent of the parties, allowing the defendant to provide suitable, alternate housing; provided that this issue has not been resolved nor is being litigated between the parties in another action;

(4) When the parties are married, sole ownership in the name of the defendant of the real property constituting the residence of the parties shall not bar the court from entering an order restraining the defendant from entering the marital residence. No order shall affect any interest in the residence held by either party;

(5) An order determining child support, child custody, or establishing visitation rights, provided that these issues have not been resolved nor are being litigated between the parties in another action. The court shall protect the safety of the plaintiff by specifying a place of visitation away from the plaintiff or take any other appropriate precaution necessary to protect the safety and well-being of the plaintiff and minor children;

(6) An order requiring the defendant to pay to the victim monetary compensation for losses suffered as a direct result of the act of domestic violence. Compensatory losses shall include, but not be

limited to, loss of earnings or support, out-of-pocket losses for injuries sustained, moving expenses, reasonable attorney's fees and compensation for pain and suffering. Where appropriate, punitive damages may be awarded in addition to compensatory damages;

(7) An order requiring the defendant to receive professional counseling from either a private source or a source appointed by the court and, in that event, at the court's discretion requiring the defendant to provide the court at specified intervals with documentation of attendance at the professional counseling. The court may order the defendant to pay for the professional counseling.

c. In addition to the relief sought in subsection b. of this section a plaintiff may seek emergency, ex parte relief in the nature of a temporary restraining order. The judge of the Family Part of the Chancery Division of the Superior Court may enter ex parte orders when necessary to protect the life, health or well-being of a victim on whose behalf the relief is sought. A hearing shall be held on an ex parte order within 10 days of the issuance thereof.

Whenever emergency relief is sought by the plaintiff, the clerk of the court or other person designated by the court shall immediately transmit the complaint to the presiding judge of the Family Part regarding the emergency relief sought by the close of business on the day relief is sought. An order granting emergency relief shall immediately be forwarded to the sheriff for immediate service of the order for emergency relief upon the defendant.

d. An order for emergency relief shall be granted upon good cause shown.

e. Emergency relief may constitute all relief available under this act together with any other appropriate relief. A temporary restraining order shall remain in effect until further action by the court.

f. Notice of orders issued pursuant to this section shall be sent by the clerk of the Family Part of the Chancery Division of the Superior Court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency.

g. All pleadings, process, and other orders filed pursuant to this act shall be served upon the defendant in accordance with the rules of court. If personal service cannot be effected upon the defendant, the court may order other appropriate substituted service.

5. Section 14 of P.L. 1981, c. 426 (C. 2C:25-14) is amended to read as follows:

C. 2C:25-14 Emergency relief.

14. a. On weekends, holidays and other times when the court is closed a judge of the Family Part of the Chancery Division of the Superior Court or a municipal court judge shall be assigned to issue a temporary restraining order pursuant to this act. The order shall be made by the judge of the jurisdiction where the alleged domestic violence occurred or the jurisdiction where the plaintiff resides using the same procedure now available on other emergent applications.

b. If it appears that the plaintiff is in danger of domestic violence, the judge shall, upon consideration of the plaintiff's domestic violence complaint, order emergency relief including ex parte relief, in the nature of a temporary restraining order. A decision shall be made by the judge regarding the emergency relief forthwith. An order granting emergency relief, together with all pleadings, process and other orders, shall immediately be forwarded to the sheriff for immediate service of the order for emergency relief upon the defendant.

c. An order for emergency relief shall be granted upon good cause shown and shall remain in effect until a judge of the Family Part issues a final order. The Family Part of the Chancery Division of the Superior Court shall hold a hearing on an emergency order within 10 days. Any temporary order hereunder may be dissolved or modified on 24 hours' notice or immediately appealable for a plenary hearing de novo not on the record before a judge of the Family Part of the county in which the plaintiff resides.

d. Emergency relief may include forbidding the defendant from returning to the scene of the domestic violence together with any other appropriate relief.

e. The judge may permit the defendant to return to the scene of the domestic violence to pick up personal belongings and effects but may by order restrict the time and duration and provide for police supervision of such visit.

f. Notice of temporary restraining orders issued pursuant to this section shall be sent by the clerk of the court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency.

g. An application for a temporary restraining order pursuant to this section shall, upon filing and issuance, be immediately forwarded

to the clerk of the Family Part of the plaintiff's vicinage for a final order.

h. Upon good cause shown, any final order may be dissolved or modified upon application to the Family Part of the Chancery Division of the Superior Court.

6. Section 15 of P.L. 1981, c. 426 (C. 2C:25-15) is amended to read as follows:

C. 2C:25-15 Supervision of removal of personal belongings.

15. a. Upon the issuance of an order pursuant to section 10, 11, 13 or 14 of this act the court may order a law enforcement officer to accompany either party to the residence to supervise the removal of personal belongings in order to insure the personal safety of the plaintiff.

b. Violation of an order issued pursuant to section 10, 11, 13 or 14 of this act shall constitute an offense under subsection b. of N.J.S. 2C:29-9 and each order shall so state. All contempt proceedings involving domestic violence orders shall be heard by the Family Part of the Chancery Division of the Superior Court.

7. Section 16 of P.L. 1981, c. 426 (C. 2C:25-16) is amended to read as follows:

C. 2C:25-16 Record of requests for orders.

16. The Administrative Office of the Courts shall maintain a uniform record of all requests for orders issued pursuant to section 10, 11, 13, or 14 of this act. The record shall include the following information:

- a. The number of complaints filed by the parties;
- b. The sex of the parties;
- c. The relationship of the parties;
- d. (Deleted by amendment, P.L. 1982, c. 82.)
- e. The relief sought;
- f. The nature of the relief granted including but not limited to, custody and child support;
- g. The effective date and terms of each order issued; and
- h. The number of orders issued.

It shall be the duty of the Director of the Administrative Office

of the Courts to compile and report annually to the Governor, the Legislature and the Advisory Council on Shelters for Victims of Domestic Violence on the data tabulated from the records of these orders.

All records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law.

C. 2C:25-15.1 Arrest procedures.

8. (New section) A defendant who commits contempt pursuant to subsection b. of section 15 of P.L. 1981, c. 426 (C. 2C:25-15b.) shall be taken into custody following arrest by a law enforcement officer. The law enforcement officer shall follow these procedures:

a. On weekends, holidays and other times when the court is closed, the law enforcement officer shall transport the defendant and the complainant to either the police station or the municipal court or such other place as the law enforcement officer shall determine is proper. The law enforcement officer shall:

(1) Sign a complaint or advise the complainant on how the complainant may complete and sign a complaint concerning the incident which gave rise to the contempt charge;

(2) Telephone the appropriate judge assigned pursuant to section 14 of P.L. 1981, c. 426 (C. 2C:25-14) and request bail be set on the contempt charge;

(3) If the defendant is unable to meet the bail as set, take the necessary steps to insure that the defendant shall be incarcerated at police headquarters or at the county jail; and

(4) On the next working day notify the clerk of the Family Part of the new complaint, the amount of bail, defendant's whereabouts and all other necessary details. In addition, if a municipal court judge set the bail, notify the clerk of that municipal court of this information.

b. During regular court hours, the law enforcement officer shall transport the defendant and the complainant to the Family Part of the Chancery Division of the Superior Court or to such other place as the law enforcement officer shall determine is proper. The law enforcement officer or the victim, with the assistance of the clerk of the Family Part, shall complete and sign a complaint concerning the incident which gave rise to the contempt charge, and the defendant shall have bail set by a judge that day.

Nothing in this section shall be construed to prevent the court from granting any other emergency relief it deems necessary.

9. N.J.S. 2C:29-9 is amended to read as follows:

Contempt.

2C:29-9. Contempt. a. A person is guilty of a crime of the fourth degree if he purposely or knowingly disobeys a judicial order or hinders, obstructs or impedes the effectuation of a judicial order or the exercise of jurisdiction over any person, thing or controversy by a court, administrative body or investigative entity.

b. A person is guilty of a crime of the fourth degree if that person purposely or knowingly violates an order entered under the provisions of the "Prevention of Domestic Violence Act," P.L. 1981, c. 426 (C. 2C:25-1 et seq.) except that a person is guilty of a disorderly persons offense if the violation constitutes a disorderly or a petty disorderly persons offense.

10. This act shall take effect on the 90th day following enactment.

Approved January 5, 1988.

CHAPTER 357

AN ACT concerning the elimination of sex as a basis for conferring certain rights and supplementing chapter 3 of Title 46 of the Revised Statutes, and revising and repealing parts of the statutory law.

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

1. Section 1 of P.L. 1965, c. 67 (C. 46:3-23) is amended to read as follows:

C. 46:3-23 Discriminatory restrictions void.

1. Any promise, covenant or restriction in a contract, mortgage, lease, deed or conveyance or in any other agreement affecting real property, heretofore or hereafter made or entered into, which limits, restrains, prohibits or otherwise provides against the sale, grant, gift, transfer, assignment, conveyance, ownership, lease, rental, use or occupancy of real property to or by any person because of race, creed, color, national origin, ancestry, marital status or sex is hereby de-

clared to be void as against public policy, wholly unenforceable, and shall not constitute a defense in any action, suit or proceeding. No such promise, covenant or restriction shall be listed as a valid provision affecting such property in public notices concerning such property. The invalidity of any such promise, covenant or restriction in any such instrument or agreement shall not affect the validity of any other provision therein, but no reverter shall occur, no possessory estate shall result, nor any right of entry or right to a penalty or forfeiture shall accrue by reason of the disregard of such promise, covenant or restriction. This section shall not apply to conveyances or devises to religious associations or corporations for religious purposes, but, such promise, covenant or restriction shall cease to be enforceable and shall otherwise become subject to the provisions of this section when the real property affected shall cease to be used for such purpose.

Nothing contained in this section shall be construed to bar any person from refusing to sell, rent, lease, assign, or sublease any room, apartment or flat in a dwelling or residential facility which is planned exclusively for or occupied exclusively for individuals of one sex to any individual of the opposite sex on the basis of sex. Nothing in this section shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, which shall include but not be limited to any summer camp, day camp, bathhouse, dressing room, and comfort station, from refusing, withholding from, or denying to any individual of the opposite sex any of the accommodations, advantages, facilities, or privileges thereof on the basis of sex.

2. R.S. 46:7-1 is amended to read as follows:

Deed of confirmation.

46:7-1. Whenever a corporation or association, created under any law of this State, shall have made, during its corporate existence, a deed or conveyance of real estate in this State, or of an interest therein, and thereafter shall have ceased to exist by reason of dissolution, death of its members or otherwise, and it shall be discovered that an error exists in such deed or conveyance, any surviving president, vice-president, director or trustee of such defunct corporation or association may, by deed of confirmation, containing a proper recital, correct the error in the original deed or conveyance. If no one of the surviving officers hereinbefore named be living, the oldest adult child, or, if there be none living, the oldest adult grandchild of any such president, vice-president, last surviving director or trustee may

make such deed of confirmation. Prior to the making of any such deed of confirmation, the person claiming to be entitled to the benefit of this section shall institute an action in the Superior Court, against any person within or without the State hereby authorized to make the deed of confirmation. The court may proceed therein in a summary manner or otherwise and, after considering the nature of the error or defect in the original deed or conveyance, and the relief sought, may, if convinced of the merit of the action, direct the proper person to execute and acknowledge the confirmatory deed.

If the person so directed to execute the confirmatory deed shall fail to comply with the judgment of the court within 20 days after the service of a certified copy thereof, the court making the judgment may, upon proof thereof, appoint a commissioner to execute the confirmatory deed.

The costs of the action shall be chargeable to the plaintiff.

A confirmatory deed executed and acknowledged or proved in accordance with the terms of this section shall be as valid and effective as if duly made, executed and acknowledged or proved under the corporate seal of such corporation or association during the period of its corporate existence.

3. R.S. 46:7-2 is amended to read as follows:

Deed of conveyance.

46:7-2. Where any conveyance of real estate has been, prior to April 6, 1915, made, executed and recorded, in which conveyance it shall appear that the persons therein named as grantees have taken the title to such real estate in behalf of or in the interest of any unincorporated religious association, society, meeting, congregation or organization, upon condition that the real estate so granted and conveyed shall be held in trust for any specific uses and purposes, and such association, society, meeting, congregation or organization shall have thereafter become incorporated as a religious society under the laws of this State, any surviving person or persons named in such conveyance as a grantee may, by deed of conveyance, containing a proper recital, convey the real estate mentioned in the original conveyance to the religious association, society, meeting, congregation or organization, in behalf of which or in whose interest title to the same was taken, in its present corporate name. If there shall be no such surviving grantee, the oldest adult child, or adult grandchild if such child be deceased, of such last surviving grantee may make the deed of conveyance herein provided for.

Any deed of conveyance, made by any surviving grantee or grantees, or oldest adult child or adult grandchild of the last surviving grantee, shall be as valid and effectual in law as if made and executed by the grantees named in such original conveyance, and the title to such real estate shall thereby vest in the incorporated religious association, society, meeting, congregation or organization, as effectually as if the same had been incorporated at the time of the original conveyance and had taken title to such real estate directly in its corporate name.

4. R.S. 46:9-9 is amended to read as follows:

Assignment of mortgages.

46:9-9. All mortgages on real estate in this State, and all covenants and stipulations therein contained, shall be assignable at law by writing, whether sealed or not, and any such assignment shall pass and convey the estate of the assignor in the mortgaged premises, and the assignee may sue thereon in his own name, but, in any such action by the assignee, there shall be allowed all just set-offs and other defenses against the assignor that would have been allowed in any action brought by the assignor and existing before notice of such assignment.

C. 46:3-17.2 Tenancy by entirety.

5. (New section) A tenancy by entirety shall be created when:

a. A husband and wife together take title to an interest in real property or personal property under a written instrument designating both of their names as husband and wife; or

b. A husband and wife become the lessees of real property or personal property under a written instrument containing an option to purchase designating both of their names as husband and wife; or

c. An owner spouse conveys or transfers an interest in real property or personal property to the non-owner spouse and the owner spouse jointly under written instrument designating both of their names as husband and wife.

Language which states “..... and, his wife” or “..... and, her husband” shall be deemed to create a tenancy by the entirety.

C. 46:3-17.3 Express creation required.

6. (New section) No instrument creating a property interest on the part of a husband and wife shall be construed to create a tenancy

in common or a joint tenancy unless it is expressed therein or manifestly appears from the tenor of the instrument that it was intended to create a tenancy in common or joint tenancy.

C. 46:3-17.4 Written consent of both spouses.

7. (New section) Neither spouse may sever, alienate, or otherwise affect their interest in the tenancy by entirety during the marriage or upon separation without the written consent of both spouses.

C. 46:3-17.5 Surviving spouse whole owner.

8. (New section) Upon the death of either spouse, the surviving spouse shall be deemed to have owned the whole of all rights under the original instrument of purchase, conveyance, or transfer from its inception.

Repealer.

9. The following is repealed:

P.L. 1947, c. 206 (C. 46:2D-1).

10. This act shall take effect on the 90th day after enactment and shall be applicable to all tenancies by entireties which are created on or after the effective date of this act.

Approved January 5, 1988.

CHAPTER 358

AN ACT concerning the Division of Insurance Fraud Prevention and amending P.L. 1983, c. 320.

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

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

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

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

may also award court costs and reasonable attorney fees to the commissioner.

Nothing in this subsection shall be construed to prohibit, in the case of a first offense, the commissioner and the person or practitioner alleged to be guilty of a violation of this act from entering into a written agreement in which the person or practitioner does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding relating to any violation of this act, nor shall notification thereof be made to a licensing authority as required pursuant to subsection c. of section 10 of this act.

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

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

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

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

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

c. When so requested by the commissioner, the Attorney General

may assign one or more deputy attorneys general to assist the division in the performance of its duties.

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

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

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

g. The commissioner shall, on or before October 15 in each year, apportion the amount so certified to him among all of the companies writing the class or classes of insurance described in Subtitle 3 of Title 17 of the Revised Statutes (C. 17:17-1 et seq.), and Subtitle 3 of Title 17B of the New Jersey Statutes (C. 17B:17-1 et seq.), within this State in the proportion that the net premiums received by each of them for such insurance written or renewed on risks within this State during the calendar year immediately preceding, as reported to him, bears to the sum total of all such net premiums received by all companies writing that insurance within the State during the year, as reported, except that no one company shall be assessed for more than 5% of the amount apportioned. The commissioner shall certify the sum apportioned to each company on or before November 15 next ensuing, and to the Division of Taxation in the Department of the Treasury. Each company shall pay the amount so certified as apportioned to it to the said Division of Taxation on or before Decem-

ber 31 next ensuing, and the sum paid shall be paid into the State Treasury in reimbursement to the State for the expenses paid.

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

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

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

C. 17:33A-3 Definitions.

3. As used in this act:

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

“Commissioner” means the Commissioner of Insurance.

“Director” means the Director of the Division of Insurance Fraud Prevention in the Department of Insurance.

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

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

“Insurance company” means:

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

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

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

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

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

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

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

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

i. The New Jersey Automobile Full Insurance Underwriting Association operating pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.); and

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

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

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

"Producer" means an agent, broker, or solicitor licensed to transact the business of insurance in this State.

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

4. This act shall take effect immediately.

Approved January 5, 1988.

CHAPTER 359

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

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

1. Notwithstanding any other law to the contrary, the governing body of any municipality which has a population greater than 28,500 and not greater than 35,500 according to the 1980 federal decennial census and which is located in a county of the second class with a population of less than 300,000 according to the 1980 federal decennial census may, by ordinance, adopt the provisions of P.L. 1944, c. 255 (C. 43:16A-1 et seq.). If the governing body adopts such an ordinance, the provisions of P.L. 1944, c. 255 (C. 43:16A-1 et seq.) shall take effect in that municipality on January 1 next following the date on which the ordinance was adopted. Upon the adoption of the ordinance, the clerk of the municipality shall immediately notify the board of trustees of the Police and Firemen's Retirement System of New Jersey of that adoption.

The normal contribution under subsection (4) of section 15 of P.L. 1944, c. 255 (C. 43:16A-15), the accrued liability contribution under subsection (9) of section 15 of P.L. 1944, c. 255 (C. 43:16A-15), any liability for prior service of transferred members, and any other costs applicable to a municipality pursuant to the adoption of an ordinance under this act shall be applicable to, and shall be included in the budget of, the municipality.

2. All costs associated with the accrued liability contribution under subsection (9) of section 15 of P.L. 1944, c. 255 (C. 43:16A-15), any liability for prior service of transferred members, and any other costs applicable to a municipality which adopts the provisions of P.L. 1944, c. 255 (C. 43:16A-1 et seq.) by ordinance shall be exempt from the limitations on increases in final appropriations imposed pursuant to P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

3. This act shall take effect immediately and section 1 shall be retroactive to April 1, 1987 and shall expire on December 31, 1988.

Approved January 5, 1988.

CHAPTER 360

AN ACT concerning the New Jersey Building Authority, the indemnification of its members and supplementing Title 59 of the New Jersey Statutes.

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

C. 59:10-10 Indemnification.

1. Citizen members of the New Jersey Building Authority to whom have been delegated the supervision of the construction, reconstruction, rehabilitation or improvement of any project pursuant to a resolution of the authority shall be indemnified and their defense of any action provided for in the same manner and to the same extent as employees of the State under the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq. on account of acts or omissions in the scope of their authority.

2. This act shall take effect immediately.

Approved January 5, 1988.

CHAPTER 361

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

20-4880 Wildlife Management \$95,000

Special Purpose:

Disposal of dead deer (\$95,000)

2. This act shall take effect immediately.

Approved January 5, 1988.

CHAPTER 362

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 a proposal adopted by legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices with respect to such election were not published or posted in accordance with the provisions of N.J.S. 18A:14-19; provided, however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 5, 1988.

CHAPTER 363

AN ACT to amend the title of "An act authorizing the maintenance of habeas corpus proceedings by grandparents to obtain visitation rights in respect to their infant grandchildren in certain cases, and supplementing chapter 2 of Title 9 of the Revised Statutes," approved February 1, 1972 (P.L. 1971, c. 420), so that the same shall read "An act authorizing the maintenance of habeas corpus proceedings by grandparents or siblings to obtain visitation rights in respect to their infant grandchildren or siblings in certain cases, and supplementing chapter 2 of Title 9 of the Revised Statutes," and to amend 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. 1971, c. 420 is amended to read as follows:

An act authorizing the maintenance of habeas corpus proceedings by grandparents or siblings to obtain visitation rights in respect to their infant grandchildren or siblings in certain cases, and supplementing chapter 2 of Title 9 of the Revised Statutes.

2. Section 1 of P.L. 1971, c. 420 (C. 9:2-7.1) is amended to read as follows:

C. 9:2-7.1 Visitation rights for grandparents, siblings.

1. Where either or both of the parents of a minor child, residing within the State, is or are deceased, or divorced or living separate and apart in different habitats, regardless of the existence of a court order or agreement, a grandparent or the grandparents of such child, who is or are the parents of such deceased, separated or divorced parent or parents, or any sibling of the child may apply to the Superior Court, in accordance with the Rules of Court, to have such child brought before such court; and the court may make such order or judgment, as the best interest of the child may require, for visitation rights for such grandparent, grandparents or sibling in respect to such child.

3. This act shall take effect immediately.

Approved January 6, 1988.

CHAPTER 364

AN ACT establishing a county senior citizen housing coordination demonstration program and making an appropriation therefor.

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

1. As used in this act:

- a. "Director" means the Director of the Division on Aging in the Department of Community Affairs;

b. "County office" means a county office on aging established pursuant to P.L. 1970, c. 248 (C. 40:23-6.38 et seq.);

c. "Senior citizen housing coordination program" means a program of county services provided by a county office which includes assisting local citizens, organizations, and county and municipal officials in obtaining information about senior citizen housing alternatives, in determining and coordinating the activities of groups in the county involved in senior citizen housing projects, in assessing the demand for senior citizen housing, and in providing technical assistance to interested individuals and groups in developing more efficient and effective senior citizen housing services.

2. In addition to the powers and responsibilities provided under any other law, the director shall have the following powers and responsibilities:

a. To certify the amount of funds, as herein provided, to be paid to county offices under this act;

b. To monitor the use of funds by county offices;

c. To promulgate such rules, regulations, and requirements as are necessary to effectuate the purposes of this act; and

d. To provide assistance and information to the county offices in effectuating a senior citizen housing coordination program.

3. If a county office receives funds pursuant to this act, the funds shall be used to hire a full-time or part-time staff person and to pay for the administrative costs incurred in establishing and effectuating a senior citizen housing coordination program, or to pay for the administrative costs incurred by a county office staff member or volunteer in effectuating such a program.

An approved senior citizen housing coordination program shall be in effect for a one year period and any funds that remain unexpended at the end of that period shall be returned to the State Treasurer for deposit in the General Fund.

4. A county office may submit an application to the director for funds for a senior citizen housing coordination program. In addition to application requirements established by the director, the application shall include:

a. A statement of the services to be provided;

b. A statement of the total cost of the program. The amount of funds certified by the director shall not exceed 75% of the total cost of the program. At least 25% of the total cost shall be paid by the county; and

c. The qualifications of the person who shall administer the program.

5. Upon application by a county office, the director shall certify the amount of funds allocable to that county office if, in addition to any other requirements he may establish, he determines that:

a. The amount requested for the program is accurate and sufficient to effectuate the proposed services, and the required 25% match shall be appropriated by the county governing body; and

b. The person designated to administer the program has sufficient administrative abilities and experience and knowledge in the area of senior citizen housing.

The director shall approve no more than five applications and no application shall be approved after one year from the effective date of this act.

The director shall review, and approve or disapprove, an application within 30 days of receipt. If the director disapproves the application, he shall set forth his reasons in writing to the county office within 30 days of his determination. The county office may resubmit an application after disapproval which is subject to the review and approval provisions of this section.

6. The director upon approval of an application shall forthwith certify to the State Treasurer and the chief financial officer of the county the amount of matching funds allocable to the county office pursuant to this act. The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute, from funds appropriated therefor, to the county the amount determined and certified by the director.

7. The director is authorized to make and issue rules and regulations in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) and to require those facts and information from a county office he may deem necessary. Each application approved by the director shall provide for the accountability of each county office for the expenditure of funds as allocated in its

approved application and performance evaluations of programs to be provided by the Division on Aging of the Department of Community Affairs in carrying out the provisions of this act.

8. The director is directed to hire, employ or assign secretarial, clerical and other technical or professional personnel as are necessary for the purposes of providing technical assistance, conducting performance evaluations, and otherwise securing the accountability of the county offices for complying with the provisions of this act. The director may, with the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury, allocate from any appropriation made to implement this act not more than \$10,000.00 for the administration of this act.

9. Any determination of the director pursuant to this act as to the amount of matching funds allocable to a county shall be final and conclusive, and no appeal shall be taken therefrom or any review thereof, except in the case of an arithmetical or typographical error in the calculation of any distribution of funds.

10. There is appropriated from the General Fund to the Division on Aging in the Department of Community Affairs the sum of \$95,000.00 to effectuate the purposes of this act.

11. The Commissioner of Community Affairs shall report to the Legislature and the Governor two months before the expiration date of this act on the effectiveness of this act in establishing senior citizen housing coordination programs.

12. This act shall take effect 30 days following enactment, except that section 2 of this act shall take effect immediately, and shall expire two years following enactment.

Approved January 6, 1988.

CHAPTER 365

AN ACT abolishing the Department of Energy as a principal department of the Executive Branch of State government, providing for the transfer of certain of its functions, powers and duties, and revising parts of the statutory law.

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

1. Section 2 of P.L. 1981, c. 122 (C. 52:27H-2) is amended to read as follows:

C. 52:27H-2 Findings, determinations; declarations.

2. The Legislature finds and determines that the well-being of the people of New Jersey, and of their institutions, including government, is directly related to the well-being of New Jersey's business and industrial enterprises, including the housing industry and small business enterprises, which provide the economic base of employment and taxes upon which all other institutions of society depend.

The Legislature further finds and determines that a secure, stable and adequate supply of energy at reasonable prices is vital to the State's economy and for the promotion of economic opportunity in the State, as well as for ensuring the public health, safety and welfare. The Legislature further finds that reducing energy costs is essential to reducing the costs of doing business in this State, which in turn will promote and maximize economic growth, speed business development, promote employment and ensure general prosperity in the State.

The Legislature further finds and determines that the principal methods for achieving the goals of this act include: the widespread use of alternative energy sources, including electric cogeneration of energy, with independent power producers selling excess power to utilities; the fullest possible cost-effective implementation of energy conservation programs; and the introduction of market-based pricing principles and competition in the setting of rates for electricity, natural gas and other energy forms.

The Legislature further finds that the original mission of a separate Department of Energy—to address and solve the problems caused by threatened catastrophic loss of near-and-long-term energy sources—no longer justifies retaining a separate Department of Energy as a principal department within the Executive Branch. The Legislature further finds that it is in the best interests of the citizens of this State that a single principal department within the Executive Branch of this State coordinate the promotion of the State's economy and serve as a focus for business and industrial concerns, promote the availability of energy at reasonable prices to all consumers and integrate the State's economic, business and energy policies and programs to retain and to enhance this State's economic health and

to ensure that the State's economy remains competitive. The Legislature further finds and determines that an important method to achieve these goals is to promote and assist the development and utilization of cogeneration of energy and programs of energy conservation.

The Legislature further finds and determines that New Jersey's economy has deteriorated in recent years from its one-time position of national prominence and leadership in many fields of business and industry, a trend particularly evident in the almost continuous decline of manufacturing employment over a span of a decade or more, a fact which has had significant and deleterious effects upon the economy of the State, impacting adversely upon a broad cross-section of New Jersey's citizenry.

The Legislature further finds and determines that the variety and magnitude of New Jersey's economic development programs have now reached a level that warrants their consolidation into a separate cabinet-level administrative department devoted exclusively to monitoring the interests and concerns of business and industry, maintaining continuous liaison with the business community and its leadership for the purpose of assisting in the formulation and direction of economic policy so as to provide business and industry the optimum climate within which enterprises may grow and prosper to the benefit of society as a whole. The Legislature also finds that the variety and complexity of programs which serve to protect the occupational health and safety of workers at the work place, to provide skill development and training programs, to provide employability development and employment placement programs, to administer the programs designed to protect the income security of our workers, to assist in the development and preservation of sound labor management relations and to maintain continuing liaison with organized labor and its leadership for the purpose of assisting in the formulation and direction of policy so as to provide the optimum climate within which organized labor can serve the needs of New Jersey's working men and women, warrants a cabinet level department devoted exclusively to this purpose which shall be known as the Department of Labor.

The Legislature, therefore, declares it to be in the best interest of the citizens of this State to establish a principal department within the Executive Branch to serve as a focus for business and industrial problems and concerns; as a center for gathering and disseminating appropriate data and information of significance to the business

community; to continually analyze such data and to help formulate economic policies of the State on the basis thereof; to serve as a major focal point for economic development activities in cooperation with other entities, public and private, active in this field; to serve as a voice for and advocate of the interests of the business sector, not only within the highest councils of the Executive Branch but also before the Legislature and the general public; to assist in translating input it receives into programs and policies of the State itself to the end that New Jersey citizens shall enjoy optimum economic security and the highest possible standard of living; to assist in coordinating authority, regulation and planning by the State in matters related to the economy.

2. Section 3 of P.L. 1981, c. 122 (C. 52:27H-3) is amended to read as follows:

C. 52:27H-3 Definitions.

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Commerce, Energy and Economic Development.

b. "Department" means the Department of Commerce, Energy and Economic Development established by this act.

3. Section 4 of P.L. 1981, c. 122 (C. 52:27H-4) is amended to read as follows:

C. 52:27H-4 Department of Commerce, Energy and Economic Development.

4. There is established in the Executive Branch of the State Government a principal department which shall be known as the Department of Commerce, Energy and Economic Development.

4. Section 5 of P.L. 1981, c. 122 (C. 52:27H-5) is amended to read as follows:

C. 52:27H-5 Commissioner.

5. The administrator and chief executive officer of the department shall be a commissioner, who shall be known as the Commissioner of Commerce, Energy and Economic Development, and who shall be a person qualified by training and experience to perform the duties of his office. The commissioner 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 commissioner's successor. He shall devote his entire time to the duties of the office and shall receive such salary as shall be provided by law. Any vacan-

cy occurring in the office of the commissioner shall be filled in the same manner as the original appointment.

C. 52:27F-4.1 Department of Energy abolished.

5. (New section) The Department of Energy is abolished as a principal department in the Executive Branch of State Government and all of its functions, powers and duties, except as herein otherwise provided, are terminated.

C. 52:27F-4.2 Termination of offices.

6. (New section) The offices and terms of the Commissioner of Energy, the assistant commissioner and the directors of the various divisions and offices of the Department of Energy, except as herein otherwise provided, shall terminate upon the effective date of this act.

C. 52:27H-20.1 Division of Energy Planning and Conservation.

7. (New section) a. The Division of Energy Planning and Conservation in the Department of Energy, together with all its functions, powers and duties, except as herein otherwise provided, is continued and this division is transferred to and constituted the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

b. The Division of Energy Planning and Conservation shall be under the immediate supervision of a director who shall be appointed by the Commissioner of Commerce, Energy and Economic Development and shall serve at the pleasure of the commissioner.

The director shall administer the work of the division under the direction and supervision of the commissioner and shall perform such other functions of the department as the commissioner may prescribe.

c. The commissioner shall organize the work of the Division of Energy Planning and Conservation and establish therein such administrative subdivisions as he may deem necessary, proper and expedient.

d. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Energy Planning and Conservation in the Department of Energy, the same shall mean and refer to the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

C. 52:27H-20.2 Advisory Council on Energy Planning and Conservation.

8. (New section) a. The Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Department of Energy, together with all its functions, powers and duties, is continued and transferred to and constituted the Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Advisory Council on Energy Planning and Conservation in the Department of Energy, the same shall mean and refer to the Advisory Council on Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

C. 52:18A-2.1 Board of Public Utilities.

9. (New section) a. The Board of Public Utilities and the positions of president and commissioners thereof, designated as such pursuant to the provisions of P.L. 1977, c. 146 (C. 52:27F-1 et seq.), are continued and designated as the Board of Public Utilities and the president and commissioners thereof in but not of the Department of the Treasury. Notwithstanding this allocation, the board shall be independent of any supervision or control by the Department of the Treasury or by any officer thereof, and, unless otherwise expressly provided by law, the board shall be independent of any supervision or control by the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development or by any officer thereof. The Department of Civil Service shall not reclassify any title or position transferred from the Board of Public Utilities pursuant to this act without the approval of the board. The president and commissioners of the Board of Public Utilities shall be appointed in the manner, and shall receive such salaries as shall be provided by law.

b. All functions, powers and duties now vested in the Board of Public Utilities in the Department of Energy and in the positions of president and commissioners thereof are transferred to and assumed by the Board of Public Utilities in the Department of the Treasury and the president and commissioners thereof.

c. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Board of Public Utilities in the Department of Energy,

the same shall mean and refer to the Board of Public Utilities in the Department of the Treasury.

C. 52:27H-20.3 Public Broadcasting Authority.

10. (New section) a. The New Jersey Public Broadcasting Authority, allocated within the Department of Energy pursuant to P.L. 1977, c. 146 (C. 52:27F-1 et seq.), together with all its functions, powers and duties is continued and is transferred to and constituted the New Jersey Public Broadcasting Authority in but not of the Department of Commerce, Energy and Economic Development. Notwithstanding this allocation, the authority shall be independent of any supervision or control by the Department of Commerce, Energy and Economic Development or by any officer or employee thereof. This act shall not affect the terms of office of, nor the salaries received by, the present members of the New Jersey Public Broadcasting Authority, or of any officers or employees thereof.

b. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Public Broadcasting Authority in the Department of Energy, the same shall mean and refer to the New Jersey Public Broadcasting Authority in the Department of Commerce, Energy and Economic Development.

C. 13:1E-96.1 Office of Recycling.

11. (New section) a. All of the functions, powers and duties heretofore exercised by the Department of Energy and the commissioner thereof pursuant to P.L. 1981, c. 278 (C. 13:1E-92 et seq.) are continued and transferred to and vested in the Department of Environmental Protection and the commissioner thereof.

b. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Office of Recycling in the Department of Energy, the same shall mean and refer to the Office of Recycling in the Department of Environmental Protection or its successor.

C. 52:27D-124.2 Energy subcode functions.

12. (New section) All of the functions, powers and duties heretofore exercised by the Department of Energy and the commissioner thereof pursuant to P.L. 1977, c. 146 (C. 52:27F-1 et seq.) relating to the adoption, amendment and repeal of the energy subcode of the State Uniform Construction Code pursuant to P.L. 1975, c. 217 (C. 52:27D-119 et seq.) and P.L. 1977, c. 256 (C. 54:4-3.113 et seq.) are hereby transferred to and vested in the Department of Community Affairs and the commissioner thereof.

C. 52:27H-6.1 Functions, powers, duties transferred.

13. (New section) All of the functions, powers and duties heretofore exercised by the Department of Energy and the commissioner thereof pursuant to P.L. 1980, c. 68; P.L. 1981, c. 302 (C. 26:2D-37 et seq.); section 15 of P.L. 1971, c. 198 (C. 40A:11-15) as amended by P.L. 1981, c. 551; P.L. 1983, c. 115 (C. 48:7-16 et seq.); P.L. 1983, c. 559 (C. 52:27F-16.1 et seq.); and N.J.S. 18A:18A-42 and N.J.S. 18A:18A-5 as amended by P.L. 1984, c. 49 are transferred to and vested in the Department of Commerce, Energy and Economic Development and the commissioner thereof.

14. Section 12 of P.L. 1977, c. 146 (C. 52:27F-14) is amended to read as follows:

C. 52:27F-14 Energy Master Plan Committee.

12. a. There is established an Energy Master Plan Committee (hereinafter "Committee") which shall be composed of the heads of the following principal departments or their designees: Commerce, Energy and Economic Development; Community Affairs; Environmental Protection; Health; Human Services; Transportation; and Treasury. The Commissioner of Commerce, Energy and Economic Development or his designee shall be the chairperson of the committee. The committee shall be responsible for the preparation, adoption and revision of master plans regarding the production, distribution, and conservation of energy in this State.

b. The committee within one year of the effective date of this act shall prepare or cause to be prepared, and, after public hearings as hereinafter provided, adopt a master plan for a period of 10 years on the production, distribution, consumption and conservation of energy in this State. Such plan shall be revised and updated at least once every three years. The plan shall include long-term objectives but shall provide for the interim implementation of measures consistent with said objectives. The committee may from time to time and after public hearings amend the master plan. In preparing the master plan or any portion thereof or amendment thereto the department shall give due consideration to the energy needs and supplies in the several geographic areas of the State, and shall consult and cooperate with any federal or State agency having an interest in the production, distribution, consumption or conservation of energy.

c. Upon preparation of such master plan, and each revision thereof, the committee shall cause copies thereof to be printed, shall transmit sufficient copies thereof to the Governor and the Legis-

lature, for the use of the members thereof, and shall advertise, in such newspapers as the commissioner determines appropriate to reach the greatest possible number of citizens of New Jersey, the existence and availability of such draft plan from the offices of the committee for the use of such citizens as may request same. In addition, the department shall:

(1) Fix dates for the commencement of a series of public hearings, at least one of which shall be held in each geographical area delineated in the master plan. Each such public hearing shall concern the overall content of the plan and those aspects thereof that have relevance to the specific geographical area in which each such public hearing is being held;

(2) At least 60 days prior to each public hearing held pursuant to this section, notify each energy industry and each State department, commission, authority, council, agency, or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission, or storage of energy in any form of the time and place for the hearing and shall publish such notice in a newspaper of general circulation in the region where the hearing is to be held, and in such newspapers of general circulation in the State as the commissioner determines appropriate to reach the greatest possible number of citizens of New Jersey.

d. Upon the completion of the requirements of subsection c. of this section, the committee shall consider the testimony presented at all such public hearings and adopt the energy master plan, together with any additions, deletions, or revisions it shall deem appropriate.

e. Upon the adoption of the energy master plan, and upon each revision thereof, the committee shall cause copies thereof to be printed and shall transmit sufficient copies thereof to the Governor and the Legislature, for the use of the members thereof, and to each State department, commission, authority, council, agency, or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission, or storage of energy in any form. In addition, the committee shall advertise in the manner provided in subsection c. of this section the existence and availability of the energy master plan from the offices of the committee for the use of such citizens of New Jersey as may request same; provided, however, that the committee

may charge a fee for such copies of the energy master plan sufficient to cover the costs of printing and distributing same.

15. (New section) All transfers 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.).

16. (New section) All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of the inconsistency, superseded.

Repealer.

17. The following are repealed:

P.L. 1977, c. 146, §1 (C. 52:27F-1);

P.L. 1977, c. 146, §§4 and 5 (C. 52:27F-4 and 52:27F-5);

P.L. 1977, c. 146, §§5.2 through 8 (C. 52:27F-7 through 52:27F-10 inclusive);

P.L. 1977, c. 146, §22.1 (C. 52:27F-25);

P.L. 1977, c. 146, §24 (C. 52:27F-27);

P.L. 1977, c. 146, §§26 and 27 (C. 52:27F-29 and 52:27F-30).

18. This act shall take effect 90 days next following its enactment, but any action necessary to effectuate the provisions of this act upon the effective date may be taken prior thereto.

Approved January 6, 1988.

CHAPTER 366

AN ACT appropriating monies from the "Water Supply Fund" for the purpose of providing loans for the construction and extension of water supply facilities to replace contaminated wells and amending P.L. 1985, c. 99.

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

1. There is appropriated to the Department of Environmental Protection from the "Water Supply Fund" created by the "Water Supply Bond Act of 1981," P.L. 1981, c. 261, as amended by P.L. 1983, c. 355, \$10,000,000.00 for the purpose of providing loans for the construction of water supply facilities to replace contaminated wells.

2. The sum appropriated in section 1 of 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. Loans made to local governments shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years.

3. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P.L. 1981, c. 261, as amended by P.L. 1983, c. 355, and the certification by the Commissioner of Environmental Protection that the water supply facilities for which funds are made available pursuant to this act comply with the requirements of the selection process set forth in the Consolidated Water Supply Bond Loan Regulations, N.J.A.C. 7:1A-1 et seq.

4. Section 4 of P.L. 1985, c. 99 is amended to read as follows:

4. a. Any funds made available to local water supply purveyors or municipalities shall be in the form of loans with principal payments due to be repaid to the "Water Supply Fund," and interest payments due to be repaid into the General Fund in accordance with the terms of a written agreement. The form of the loan agreement shall be specified by the State Treasurer. However, funds appropriated in section 1 of P.L. 1985, c. 99 for "Loans for remedial programs to resolve water supply contamination problems" shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years.

b. If any of the applicants listed in P.L. 1985, c. 99 require less than the total amount appropriated herein, or elect not to apply for the funds within one year of the effective date of this 1987 amendatory act, then the department may use the residual funds on new applicant requests.

5. This act shall take effect immediately.

Approved January 6, 1988.

CHAPTER 367

AN ACT concerning nursing home patients and amending P.L. 1985, c. 303.

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

1. Section 2 of P.L. 1985, c. 303 (C. 10:5-12.2) is amended to read as follows:

C. 10:5-12.2 Unlawful discrimination by nursing homes.

2. 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 or a recipient of public assistance under P.L. 1947, c. 156 (C. 44:8-107 et seq.) when a nursing home bed becomes available; except that this requirement shall not be construed to apply to the transfer of a resident 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 and recipients of public assistance under P.L. 1947, c. 156 (C. 44:8-107 et seq.) 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.

2. This act shall take effect immediately.

Approved January 6, 1988.

CHAPTER 368

AN ACT requiring the Department of Health to conduct a study of the health of the people living near the Global Landfill and the Sommers Brothers dump site, 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 illegal disposal of sewage sludge and septage contaminated with toxic chemicals and illegal dumping of toxic chemicals occurred at the Global Landfill; that the failure of a side slope of the landfill has caused odor problems from the release of noxious gases; that the Sommers Brothers dump site,

once part of the municipal dump, is contaminated with lead and other hazardous wastes, drums of which remain buried in the fill; that chemicals from both of these locations may have migrated through the soil into ground water and thereby breached the foundations of homes; that scientific evidence suggests a possible link between exposure to these gases and the occurrence of a variety of human ailments; and, that, therefore, to insure protection of the public health and safety, it is necessary to determine the extent and magnitude of the residents' exposure to chemicals from the Global Landfill and the Sommers Brothers dump site, in order to determine the appropriate actions to address the residents' health concerns and to develop appropriate remedial solutions.

2. The Department of Health in cooperation with the Department of Environmental Protection shall review the existing information on the Global Landfill and the Sommers Brothers site and other relevant information and determine the required additional exposure data and any other relevant information which must be collected in order to determine the appropriate action to address the health concerns of the residents, and to develop appropriate remedial solutions.

3. The Department of Environmental Protection, in consultation with the Department of Health, shall determine which of the required additional exposure data could be collected immediately using existing funds and which would require additional funds.

4. The Department of Health, in cooperation with the Department of Environmental Protection, shall establish an outreach and education program for the residents living near the Global Landfill and Sommers Brothers site. The purpose of this program will be to maintain a close working relationship between the residents and the Departments of Health and Environmental Protection and to provide the residents with information on the hazards of the chemicals identified on the sites and on risk reduction methods.

5. The Department of Health shall submit a report of the review and needs assessment together with any recommendations and funding request it deems appropriate, to the Governor and the Legislature by October 31, 1987.

6. There is appropriated from the General Fund to the Department of Health the sum of \$75,000.00 to conduct the study required by this act.

7. This act shall take effect immediately.

Approved January 6, 1988.

CHAPTER 369

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
22 DEPARTMENT OF COMMUNITY AFFAIRS
50 Economic Planning, Development and Security
55 Related Social Services Programs

16-8062 Office of the Public	
Guardian	\$300,000
Special Purpose:	
Additional staffing and increased	
caseload expenses	(\$300,000)

2. This act shall take effect immediately.

Approved January 6, 1988.

CHAPTER 370

AN ACT establishing the "Catastrophic Illness in Children Relief Fund" and the Catastrophic Illness in Children Relief Fund Commission; prescribing the membership and powers of the commission; and supplementing Title 26 of the Revised Statutes.

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

C. 26:2-148 Findings, declarations.

1. The Legislature finds and declares that:

a. Although the majority of Americans are covered by some form

of health insurance, families nevertheless lack protection against the high cost of chronic or single episodes of serious illness that may destroy their resources. An illness resulting in this potentially devastating financial consequence is referred to as a catastrophic illness.

b. Catastrophic illnesses often threaten to push some families into bankruptcy and others toward seeking inferior medical care and present a major problem for this nation's health care system in that catastrophic illnesses account for over 20% of this nation's health expenditures.

c. The impact of catastrophic illnesses on the family is especially acute in that children have the highest average medical costs among the population as a whole.

d. It is the public policy of this State that each child of this State should have access to quality health care and adequate protection against the extraordinarily high costs of health care services which are determined to be catastrophic and severely impact upon a child and his family.

e. To this end, it is incumbent upon the State to provide assistance to children and their families whose medical expenses extend beyond the families' available resources.

C. 26:2-149 Definitions.

2. As used in this act:

a. "Catastrophic illness" means any illness or condition the medical expenses of which are not covered by any other State or federal program or any insurance contract and exceed 30% of the income of a family whose income is \$100,000.00 or less per year or 40% of the income of a family whose income is over \$100,000.00 per year.

b. "Child" means a person under 18 years of age.

c. "Commission" means the Catastrophic Illness in Children Relief Fund Commission.

d. "Family" means a child and the child's parent, parents or legal guardian, as the case may be, who is legally responsible for the child's medical expenses.

e. "Fund" means the Catastrophic Illness in Children Relief Fund.

f. "Income" means all income, from whatever source derived, actually received by a family.

g. "Resident" means a person legally domiciled within the State for a period of six months 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 or more is prima facie evidence of abandonment of domicile. The burden of establishing legal domicile within the State is upon the parent or legal guardian of a child.

C. 26:2-150 Catastrophic Illness in Children Relief Fund.

3. The "Catastrophic Illness in Children Relief Fund" is established as a nonlapsing, revolving fund. The fund shall be administered by the commission, and shall be credited with monies received pursuant to section 10 of this act.

The State Treasurer is the custodian of the fund and all disbursements from the fund shall be made by the treasurer upon vouchers signed by the chairman of the commission. The monies in the fund shall be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury as are other trust funds in the custody of the State Treasurer in the manner provided by law. Interest received on the monies in the fund shall be credited to the fund.

C. 26:2-151 Relief fund commission.

4. There is established in, but not of, the State Department of Health the Catastrophic Illness in Children Relief Fund Commission. The commission shall consist of the Commissioner of the State Department of Health, the Commissioner of the Department of Human Services, the Commissioner of the Department of Insurance, and the State Treasurer, who shall be members ex officio, and five public members who are residents of this State, appointed by the Governor with the advice and consent of the Senate for terms of five years, one of whom is appointed upon the recommendation of the President of the Senate and is a provider of health care services to children in this State and one of whom is appointed upon the recommendation of the Speaker of the General Assembly and is a provider of health care services to children in this State. The five public members first appointed by the Governor shall serve for terms of one, two, three, four and five years, respectively.

Each member shall hold office for the term of his appointment and until his successor has been appointed and qualified. A member of the commission is eligible for reappointment.

Each ex officio member of the commission may designate an officer or employee of his department to represent him at meetings of the commission, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing delivered to the commission and filed with the office of the Secretary of State and shall continue in effect until revoked or amended in the same manner as provided for designation.

C. 26:2-152 Removal; oaths; vacancies.

5. Each member of the commission 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 of the commission 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 the oaths shall be filed in the office of the Secretary of State.

Any vacancies in the membership of the commission occurring other than by the expiration of a term shall be filled in the same manner as the original appointment, but for the unexpired term only.

C. 26:2-153 Officers; quorum.

6. The Commissioner of the State Department of Health shall be chairman and chief executive officer of the commission and the members shall elect a secretary and a treasurer who need not be members of the commission and the same person may be elected to serve both as secretary and treasurer.

The powers of the commission are vested in the members thereof in office from time to time and six members of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of at least six members of the commission. A vacancy in the membership of the commission shall not impair the right of a quorum to exercise all the powers and perform all the duties of the commission.

The members of the commission shall serve without compensation, but the commission shall reimburse its members for the reasonable expenses incurred in the performance of their duties based upon the monies available in the fund.

The commission shall be appointed within three months after the effective date of this act and shall organize as soon as may be practicable after the appointment of its members.

C. 26:2-154 Powers; duties.

7. The commission has, but is not limited to, the following powers and duties:

a. Establish in conjunction with the Special Child Health Services program established pursuant to P.L. 1948, c. 444 (C. 26:1A-2 et seq.) a program for the purposes of this act, administer the fund and authorize the payment or reimbursement of the medical expenses of children with catastrophic illnesses;

b. Establish procedures for enrollment in the program, determining the eligibility for the payment or reimbursement of medical expenses for each child, processing claim disputes and establish procedures to provide that, in the case of an illness or condition for which the family, after receiving assistance pursuant to this act, recovers damages for the child's medical expenses pursuant to a settlement or judgment in a legal action, the family shall reimburse the fund for the amount of assistance received, or that portion thereof covered by the amount of the damages less the expense of recovery;

c. Establish the amount of reimbursement for the medical expenses of each child using a sliding fee scale based on a family's ability to pay for medical expenses which takes into account family size, family income and assets and family medical expenses and adjust the financial eligibility criteria established pursuant to subsection a. of section 2 of this act based upon the moneys available in the fund;

d. Disseminate information on the fund and the program to the public;

e. Adopt bylaws for the regulation of its affairs and the conduct of its business, adopt an official seal and alter the same at pleasure, maintain an office at the place within the State as it may designate, and sue and be sued in its own name;

f. Employ professional and clerical assistance necessary to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes;

g. Maintain confidential records on each child who applies for assistance under the fund;

h. Do all other acts and things necessary or convenient to carry out the purposes of this act; and

i. Adopt rules and regulations in accordance with the "Adminis-

trative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) necessary to effectuate the purposes of this act.

C. 26:2-155 Eligibility.

8. A child who is a resident of this State is eligible, through his parent or legal guardian, to enroll in the program established pursuant to subsection a. of section 7 of this act.

C. 26:2-156 Financial assistance.

9. Whenever a child has a catastrophic illness and is enrolled in the program, the child, through his parent or legal guardian, is eligible for financial assistance from monies in the fund subject to the rules and regulations established by the commission and the availability of monies in the fund. The financial assistance shall include, but is not limited to, payments or reimbursements for the cost of medical treatment, hospital care, drugs, nursing care and physician services.

C. 26:2-157 Unemployment fund surcharge.

10. For the purpose of providing the moneys necessary to establish and meet the purposes of the fund, the commission shall establish a \$1.00 annual surcharge per employee for all employers who are subject to the New Jersey "Unemployment Compensation Law," R.S. 43:21-1 et seq. The surcharge shall be collected by the controller for the New Jersey Unemployment Compensation Fund and paid over to the State Treasurer for deposit in the fund annually as provided by the commission.

C. 26:2-158 Rules, regulations.

11. The State Treasurer shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) establishing procedures for the collection of the surcharge.

C. 26:2-159 Annual report.

12. The commission shall report annually to the Governor and the Senate Institutions, Health and Welfare Committee and General Assembly Health and Human Resources Committee on the status of the program. The report shall include information about the number of participants in the program, average expenditures per participant, the nature and type of catastrophic illnesses for which the fund provided financial assistance, and the average income and expenditures of families who received financial assistance under the program. The commission also may make recommendations for changes in the law and regulations governing the fund.

13. This act shall take effect immediately.

Approved January 7, 1988.

CHAPTER 371

AN ACT concerning the solicitation of bids for volunteer fire department or volunteer first aid or rescue squad equipment and amending P.L. 1969, c. 104.

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

1. Section 4 of P.L. 1969, c. 104 (C. 52:25-16.2) is amended to read as follows:

C. 52:25-16.2 Development of specifications.

4. The director may, on the written request of any political subdivision, volunteer fire department, or volunteer first aid or rescue squad of this State, singly or jointly develop specifications or establish approved brand name lists of commonly used commodities, equipment or services, even though such commodities, equipment or services may not be purchased or used by the State. In these cases, the resulting specifications or approved brand name lists shall be submitted to the political subdivision, volunteer fire department, or volunteer first aid or rescue squad initiating the request for approval. After approval by the parties concerned, the director may, at the request of the applicant political subdivision, volunteer fire department, or volunteer first aid or rescue squad, solicit bids pursuant to P.L. 1954, c. 48 (C. 52:34-6 et seq.). After determining the lowest responsible bidder meeting all of the specifications and conditions, the director shall notify the applicant political subdivision, volunteer fire department, or volunteer first aid or rescue squad of the results.

2. This act shall take effect on the 180th day after enactment.

Approved January 7, 1988.

CHAPTER 372

AN ACT concerning the membership of the New Jersey Olympian Development and Recognition Study Commission and making an appropriation.

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

1. Section 2 of P.L. 1986, c. 108 is amended to read as follows:
2. There is created a commission to be known as the New Jersey Olympian Development and Recognition Study Commission consisting of 12 members as follows:
 - a. Two members of the Senate to be appointed by the President thereof, no more than one of whom shall be a member of the same political party;
 - b. A public member to be appointed by the President of the Senate;
 - c. A public member to be appointed by the Speaker of the General Assembly;
 - d. Two members of the General Assembly to be appointed by the Speaker thereof, no more than one of whom shall be a member of the same political party;
 - e. Four public members to be appointed by the Governor, no more than two of whom shall be of the same political party; and,
 - f. The Executive Director of the Governor's Council on Physical Fitness and Sports and the State Chairman of the United States Olympic Committee.

Members of the commission shall serve without compensation but shall, within the limits of available funds, be entitled to reimbursement for expenses incurred in the performance of their duties.

2. Section 8 of P.L. 1986, c. 108 is amended to read as follows:
8. This act shall take effect immediately and shall expire on December 31, 1989.
3. In addition to the sums appropriated under P.L. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
LEGISLATIVE BRANCH
01 Legislature
09 Legislative Commissions
0054 N.J. Olympian Development and Recognition
Study Commission

09-0054 N.J. Olympian Development
and Recognition Study Commission . \$10,000

Special Purpose:

Expenses of the commission (\$10,000)

4. This act shall take effect immediately.

Approved January 7, 1988.

CHAPTER 373

AN ACT concerning the inspection of motor vehicles subject to the jurisdiction of the Department of Transportation, authorizing the Department of Transportation to charge and collect fees for certain inspection services and supplementing Title 48 of the Revised Statutes.

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

C. 48:4-2.1b Vehicle emission, brake tests.

1. The Commissioner of Transportation may, in conjunction with any program of self-inspection established to ensure compliance with regulations adopted under section 90 of P.L. 1962, c. 198 (C. 48:4-2.1a), and at the request of any owner or operator of a motor vehicle required to be self-inspected, authorize Department of Transportation personnel to conduct vehicle emission tests and brake tests. The commissioner may adopt regulations setting the amount of and providing for the charging and collecting of a fee for each vehicle emission test and each brake test conducted pursuant to this section, which fee shall be in an amount necessary to cover only the actual costs of the program.

2. This act shall take effect immediately.

Approved January 7, 1988.

CHAPTER 374

AN ACT concerning motor vehicle registration plates for certain non-profit organizations and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-27.35 Special organization plates.

1. A person who is a member in good standing of a nonprofit community, alumni or service organization in the State approved by the director pursuant to the provisions of this act may be issued a set of special organization vehicle registration plates to be displayed on his motor vehicle in place of standard registration plates.

C. 39:3-27.36 Conditions of issuance.

2. Special organization vehicle registration plates shall be issued subject to the following conditions:

a. Each organization shall appoint an organization representative who will act as a liaison between the organization and the division.

b. The representative shall, upon application on behalf of any member, provide a copy of the charter of the organization to the division which shall indicate the organization's lawful purpose and shall also provide proof of its nonprofit status.

c. The representative shall submit an organization Certification of Membership when requested by the division and, once the organization and a registration plate arrangement under subsection d. are approved, forward a fee of no more than \$75.00 as determined by the director for each set of special organization vehicle registration plates, in addition to fees otherwise prescribed by law, for these plates. The Certification of Membership shall be printed at the organization's expense and contain the organization's official letterhead, the signature of the organization's representative, the names and addresses of organization members requesting special organization vehicle registration plates, and the present registration plate numbers of the vehicles of the members.

d. The representative also shall submit to the division the name or initials the organization wishes to be placed at the bottom of the plate and a logotype. The use and arrangement of the name, initials, or logotype of the organization on the registration plates shall be in the sole discretion of the director.

e. Special organization vehicle registration plates shall not be provided to any commercially registered vehicle or any motorcycle.

f. The initial order for plates shall be for no less than 500 members of the organization in good standing and shall be accompanied by the fees prescribed by the director.

C. 39:3-27.37 Director as final authority.

3. The director shall have the authority to make the final decision as to whether or not an organization is approved for the issuance of special organization vehicle registration plates to its members notwithstanding the organization's compliance with section 2 of P.L. 1987, c. 374 (C. 39:3-27.36).

C. 39:3-27.38 Suspension of approval.

4. The director shall have the right to suspend approval of any organization granted permission to obtain special organization vehicle registration plates on behalf of its members if the organization:

- a. No longer qualifies according to the provisions of this act; or
- b. Has perpetrated a fraud against the Division of Motor Vehicles in obtaining special plates for its members.

C. 39:3-27.39 Rules, regulations.

5. Pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), the director may adopt rules and regulations governing the design, issuance and use of these vehicle registration plates including the nature of the documentation to be used as proof of nonprofit status, definitions of community, alumni, and service organizations, and procedures for the return of special organization vehicle registration plates from persons who are no longer members in the approved organization or who have been convicted of any violation pursuant to P.L. 1959, c. 56 (C. 39:3-33.5).

C. 39:3-27.40 Other laws remain operative.

6. Notwithstanding the provisions of this act, laws and regulations which are in existence as of the effective date of this act and which provide for the issuance of specific types of special registration plates shall remain operative.

7. This act shall take effect on the first day of the sixth month after enactment, except that section 5 shall take effect immediately.

Approved January 7, 1988.

CHAPTER 375

AN ACT concerning private vocational schools, amending N.J.S. 18A:69-2 and N.J.S. 18A:69-3 and supplementing chapter 69 of Title 18A of the New Jersey Statutes.

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

1. N.J.S. 18A:69-2 is amended to read as follows:

Certificate of approval; fee.

18A:69-2. Every such school shall be required to register with the commissioner and shall not be permitted to operate unless it receives a certificate of approval issued by the commissioner under rules of the State board.

Every application for a certificate of approval shall include the payment of a fee in an amount equal to the sum of \$700.00 for a maximum of 10 training sites and \$70.00 for each additional training site.

2. N.J.S. 18A:69-3 is amended to read as follows:

Renewal; fee.

18A:69-3. Such certificate may be renewed annually or may be revoked at any time for good cause.

Every request for the renewal of a certificate of approval shall include the payment of a fee in an amount equal to the sum of \$450.00 for a maximum of 10 training sites and \$45.00 for each additional training site.

C. 18A:69-6.1 Out-of-State schools.

3. (New section) A private school located outside of the State which charges tuition or fees for a program of business, trade or technical education or which gives preemployment or supplementary training or both shall not conduct business in this State unless it receives a certificate of approval from the Commissioner of Education in a form and under regulations established by the commissioner. An application for a certificate of approval shall include the payment of a fee of \$700.00. Each marketing representative or agent of such a school shall not solicit students or transact business in the State unless that individual has registered with the commissioner in the form and under regulations established by the commissioner. Each application for registration shall include the payment of a fee of \$25.00. Each certificate of approval shall be renewed annually upon

payment of a fee of \$450.00 and each license shall be renewed annually upon the payment of a fee of \$25.00. Any approval or registration may be revoked for good cause at any time after hearing.

C. 18A:69-6.2 Standards.

4. (New section) The commissioner shall prescribe, with the approval of the State Board of Education, standards governing the proper operation of private vocational schools located outside of the State in all matters necessary to insure the adequacy of instruction, and may require the schools as a condition of approval to furnish such information and reports as the commissioner deems necessary.

C. 18A:69-6.3 Fees to defray costs.

5. (New section) The funds collected pursuant to this amendatory and supplementary act shall be used to defray the excess costs of administering the registration and approval process required herein.

C. 18A:69-6.4 Rules, regulations.

6. (New section) 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 necessary to effectuate the provisions of this act.

7. This act shall take effect immediately.

Approved January 7, 1988.

CHAPTER 376

AN ACT concerning domestic animal control and amending P.L. 1941, c. 151.

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

1. Section 16 of P.L. 1941, c. 151 (C. 4:19-15.16) is amended to read as follows:

C. 4:19-15.16 Destruction, adoption of stray dogs.

16. Any person appointed for the purpose by the governing body of the municipality shall take into custody and impound or cause to be taken into custody and impounded, and thereafter destroyed or offered for adoption as provided in this section:

- (a) Any dog off the premises of the owner or of the person keeping or harboring said dog which said official or his agent or agents have reason to believe is a stray dog;
- (b) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on his collar;
- (c) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog;
- (d) Any dog or other animal which is suspected to be rabid;
- (e) Any dog or other animal off the premises of the owner reported to, or observed by, a certified animal control officer to be ill, injured or creating a threat to public health, safety or welfare, or otherwise interfering with the enjoyment of property.

If any animal so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring said animal is known, any person authorized by the governing body shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said animal, if known, a notice in writing stating that the animal has been seized and will be liable to be offered for adoption or destroyed if not claimed within seven days after the service of the notice.

A notice under this section may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known place of abode, or at the address given on the collar, or by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode, or to the address given on the collar.

Any person authorized by the governing body may cause an animal to be destroyed in a manner causing as little pain as possible and consistent with the provisions of R.S. 4:22-19 or offered for adoption seven days after seizure; provided that:

- (1) Notice is given as set forth above and the animal remains unclaimed; or
- (2) The owner or person keeping or harboring the animal has not claimed the animal and paid all expenses incurred by reason of its detention, including maintenance costs not exceeding \$4.00 per day; or

(3) The owner or person keeping or harboring a dog which was unlicensed at the time of seizure does not produce a license and registration tag for the dog.

At the time of adoption, the right of ownership in the animal shall transfer to the new owner. No dog or other animal so caught and detained or procured, obtained, sent or brought to a pound or shelter shall be sold or otherwise made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a disorderly persons offense.

After observation, any animal seized under this section suspected of being rabid shall be immediately reported to the executive officer of the local board of health and to the Department of Health.

2. This act shall take effect immediately.

Approved January 7, 1988.

CHAPTER 377

AN ACT concerning pet health insurance, amending the "New Jersey Property-Liability Insurance Guaranty Association Act," P.L. 1974, c. 17, and supplementing Title 17 of the Revised Statutes and Title 17B of the New Jersey Statutes.

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

C. 17:46D-1 Hospital, medical benefits for pets.

1. (New section) Any insurer writing any coverage to which the provisions of R.S. 17:17-1 apply, any hospital service corporation established pursuant to the provisions of P.L. 1938, c. 366 (C. 17:48-1 et seq.), any medical service corporation established pursuant to the provisions of P.L. 1940, c. 74 (C. 17:48A-1 et seq.), or any health service corporation established pursuant to the provisions of P.L. 1985, c. 236 (C. 17:48E-1 et seq.) may offer group or individual policies or contracts which provide benefits for hospital and medical services for pets, provided that these services are provided by a veterinarian licensed pursuant to chapter 16 of Title 45 of the Revised Statutes or by the laws of any other state. The policy or contract may provide for exclusions or deductibles, or both. As used in this

section, "pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

C. 17:46D-2 Group, individual policies.

2. (New section) Any insurer may offer group or individual policies or contracts which provide benefits for hospital and medical services for pets, provided that these services are provided by a veterinarian licensed pursuant to chapter 16 of Title 45 of the Revised Statutes or by the laws of any other state. The policy or contract may provide for exclusions or deductibles, or both. As used in this section, "pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

3. (New section) If any application or any rate filing for any policy or contract of insurance to be written pursuant to section 1 or 2 of this act is pending as of the effective date of this act, the commissioner shall either approve such application or filing within 90 days of the enactment of this act or report to the Legislature the reasons for his disapproval of the filing or application.

4. Section 2 of P.L. 1974, c. 17 (C. 17:30A-2) is amended to read as follows:

C. 17:30A-2 Purpose; applicability of act.

2. a. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay payment, to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

b. This act shall apply to all kinds of direct insurance, except life insurance, accident and health insurance, workers' compensation insurance, title insurance, annuities, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, ocean marine insurance, pet health insurance, and insurance provided by the Motor Vehicle Liability Security Fund, established pursuant to P.L. 1952, c. 175 (C. 39:6-92 et seq.), until funds comprising said fund are declared exhausted by the commissioner.

5. This act shall take effect immediately.

Approved January 7, 1988.

CHAPTER 378

AN ACT providing for the establishment of two, but not more than four, demonstration centers to provide job training programs and other services for Hispanic women 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 "Hispanic Women's Demonstration Resource Centers Act."

2. The Legislature finds and declares that:

a. Hispanics in New Jersey represent 9% of the total population and constitute the second largest and fastest-growing minority in the State.

b. In 1985, 32% of all Hispanic families were headed by women; 43% of whom were families in poverty.

c. Hispanic women are concentrated in low-skill, low-salary jobs, working fewer hours per year and earning less than either black or white women; their disadvantaged employment status is linked to the fact that Hispanic women have completed fewer years of education than non-Hispanic women; only 6% have completed college and a mere 43% of Hispanic women as compared to 69% of non-Hispanic women have graduated from high school.

d. Contributing to the Hispanic women's plight is the fact that cultural differences and language barriers are not acknowledged by the present educational, career and social services system in New Jersey; although some agencies have bilingual staff, they lack the bicultural knowledge of the socioeconomic obstacles that affect an Hispanic woman's ability to fully participate in the programs currently offered.

3. As used in this act:

a. "Center" means an Hispanic women's demonstration resource center established pursuant to this act which is intended to enhance the employability of Hispanic women.

b. "Department" means the Department of Community Affairs.

c. "Division" means the Division on Women within the Department of Community Affairs.

- d. "Director" means the Director of the Division on Women.
- e. "Hispanic" means a woman who is of Spanish or Latin American culture, with origins in Mexico, South or Central America, or the Caribbean Islands.
- f. "Office" means the Office of Hispanic Affairs within the Department of Community Affairs.

4. The division shall establish not less than two but not more than four Hispanic women's demonstration resource centers; one in conjunction with an existing facility in southern New Jersey, and the other in conjunction with an existing facility in northern New Jersey. The centers shall be established in locations serving populations of Hispanic women in northern and southern New Jersey through the issuance of grants to public or private nonprofit organizations servicing either women or Hispanic populations. In reviewing grant applications under this act, the division shall give due consideration to the needs of the Hispanic women in the municipality in which the applicant is located and surrounding area. The division shall develop comprehensive guidelines for the establishment, goals and operation of the centers. In carrying out the purposes of this act, the director shall consult with the Office of Hispanic Affairs and the Advisory Board for the Hispanic Women's Demonstration Resource Centers. There is created the Advisory Board for the Hispanic Women's Demonstration Resource Centers which shall consist of nine public members two of whom shall be appointed by the Speaker of the General Assembly, each of opposite parties, two of whom shall be appointed by the President of the Senate, each of opposite parties, and five of whom shall be appointed by the Governor with no more than three from one political party. When making these appointments the appointing authorities shall give due consideration to individuals having expertise in Hispanic women's affairs and being members of organized Hispanic groups, including the Hispanic Women's Task Force and the New Jersey Congress of Latino Women. The advisory board shall be appointed within 60 days of the enactment of this act. Vacancies in the membership of the advisory board shall be filled in the same manner as the original appointments were made.

5. The centers shall provide:
- a. Outreach to the Hispanic community to inform the community of the center's resources;

b. Basic English language skills and bilingual and bicultural resources;

c. Training in assertiveness, survival and coping skills;

d. Educational evaluation services by a qualified bilingual counselor employed by the center, which services include screening, assessment and referral to basic educational, vocational training and other educational programs;

e. Job counseling services which are specifically designed to prepare women to enter or reenter the work force by assisting them in acquiring knowledge of their talents and skills in relation to existing traditional and nontraditional job opportunities and to those which are emerging as a result of new employment trends;

f. Self-help programs and mentoring projects, including workshops, group discussions, and dissemination of information about existing federal, State and local employment, education, health, and other community services which provide assistance in overcoming barriers to employment. These programs shall include outreach and information about other programs which are determined to be of interest and benefit to working parents, women newly entering or reentering the work force after a prolonged absence from it, those in need of financial management services, including information and assistance with respect to credit, insurance, taxes, loans and related financial matters, and women who need information about a diversity of housing problems;

g. Career information services, job training including internships, and job placement services which assist participants in gaining admission to existing public and private job training programs and in gaining job opportunities by cooperating, whenever possible, with appropriate State and local government agencies and private employers. These training and placement services shall foster the development of partnerships with industry, particularly those concerns which are associated with urban enterprise zones, and the enhancement of the neighborhood and communities which surround the centers. To the extent possible, the training and placement services shall consult with the area private industry councils established pursuant to the provisions of the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. §1501 et seq.), and the Division of Employment Services in the Department of Labor in order to help identify local job opportunities or areas of expansion in private industry;

h. Information and referral services concerning: legal issues such as domestic violence, sexual assault, family support and sex discrimination; health care issues such as family planning, substance abuse, nutrition and mental health; public assistance programs; and child care services.

Each center may purchase services from or contract with individuals, county or municipal governments, school districts, county colleges or county vocational schools to carry out the provisions of this section.

6. The centers and programs established under this act shall emphasize activities which provide training and other employment related services which are designed to enhance the employability and earnings of Hispanic women and impact on the quality of their lives and those of their families. The centers and programs shall, to the extent possible, identify existing job opportunities for women and assist those women who utilize the centers in obtaining employment.

7. The division shall make a study of employment needs of individuals who use the service of the centers and of existing programs and services which are effective in meeting those needs. The division shall also coordinate community organizations, women's groups, and public agencies to maximize the utilization of existing programs and resources. The coordination shall include, but not be limited to, the Office of Hispanic Affairs in the Department of Community Affairs, the Office for Equal Access, Division of Vocational Education in the Department of Education, the Division of Vocational Rehabilitation Services in the Department of Labor, and the Division of Public Welfare in the Department of Human Services. The goal of this coordination shall be to put Hispanic women in touch with existing programs and to foster cooperation and the exchange of information among all departments and agencies of State government which sponsor employment and related programs of special interest to women.

8. Each center shall compile and maintain a description and assessment of each program it operates pursuant to this act including, but not limited to, the following information: the number of women served; the number who enrolled in English language courses; the number given educational counseling; the number given career counseling; the number who obtained employment; the number who enrolled in educational or vocational courses; the number of those enrolled who completed the courses; the cost per woman for each

enrollment in a program; the number who were referred for medical assistance; the number who were referred to domestic violence shelters; the number referred for government assistance; the number placed in jobs; the number no longer receiving public assistance funds; the number referred for legal assistance; and the total number of staff and the ratio of staff to persons served under the program.

Data and findings shall be made available to the Governor and the Legislature within one year after the effective date of this act.

9. The director:

a. May seek, receive and make use of any funds which may be available from federal or other sources in order to augment State funds which are appropriated pursuant to this act, and shall make every effort to qualify the program for federal funding;

b. Shall apply for and make use of funds made available from federal and other sources for job training, including funds appropriated to the State under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. §1501 et seq.); and

c. May establish guidelines governing the expenditure of funds to carry out the provisions of this act.

10. The department shall report to the Governor and the Legislature on the implementation of this act within one year after the effective date.

11. There is appropriated \$400,000.00 from the General Fund to the Department of Community Affairs to carry out the purposes of this act.

12. This act shall take effect on the 90th day following enactment and shall expire one year thereafter.

Approved January 8, 1988.

CHAPTER 379

AN ACT providing for the borough form of government, repealing parts of the statutory law and adding chapter 60 to Title 40A of the New Jersey Statutes.

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

1.

TITLE 40A
CHAPTER 60
BOROUGHs

40A:60-1.	Incorporation, Corporate Seal; Change of Name.
40A:60-2.	Elected Officers.
40A:60-3.	Organization, Officers; Meetings.
40A:60-4.	General Powers.
40A:60-5.	Powers of the Mayor.
40A:60-6.	Powers of the Council.
40A:60-7.	Miscellaneous.
40A:60-8.	Statutes Repealed.

40A:60-1. Incorporation; Corporate Seal; Change of Name.

a. The inhabitants of each of the several boroughs are hereby continued as a body politic and corporate in law as heretofore constituted and established and shall be known by the name of "the borough of", in the county of" (as the case may be), and the boundaries of the several boroughs shall be and remain as heretofore established by law.

b. Each borough governed by the laws pertaining to the borough form of government shall have full power to sue and be sued and have a corporate seal.

c. Any existing borough may, by resolution of the council, adopt a name, as prescribed in subsection a. of this section, and the borough clerk shall then file a copy of the resolution adopting said name with the county clerk, certified by the borough clerk. After the filing of such certificate said borough shall be known and designated by the name so adopted, but no suit, proceeding or instrument shall abate or in anywise be affected by any change of corporate name.

(Source: R.S. 40:86-1, R.S. 40:86-2.)

40A:60-2. Elected Officers.

a. The mayor shall be elected by the voters of the municipality at large and serve for a term of four years and until his successor shall have qualified.

b. (1) The council shall consist of six members, elected at large, and shall serve for a term of three years and until their successors shall have qualified. Their terms shall be arranged, by lot if necessary, so that the terms of two councilmen shall expire at the end of each year; and

(2) Notwithstanding the provisions set out in paragraph (1) above, a borough that has been divided into wards prior to the effective date of this act shall continue to be divided into wards for so long as the ordinance establishing the wards remains in effect.

c. There shall be held annually, at the time provided by law for holding general elections, an election for borough officers.

(Source: R.S. 40:87-1, R.S. 40:87-2 et seq., R.S. 40:87-9 and R.S. 40:87-14.)

40A:60-3. Organization; Officers; Meetings.

a. The mayor and council shall hold an annual meeting on the first day of January at 12 o'clock noon, or during the first seven days of January in any year.

b. At its annual meeting, the council shall, by the vote of a majority of its number, elect a president of the council, who shall preside at all its meetings when the mayor does not preside. The president of the council shall hold office for one year and until the next annual meeting. He shall have the right to debate and vote on all questions before council.

If the council fails to elect a president at the annual meeting, the mayor shall appoint the president from the council and, in that case, no confirmation by the council shall be necessary.

c. The president of the council shall perform all the duties of the mayor during any period in which the mayor is absent from the borough for three days or more or is unable to perform the duties of his office. Where such absence is intended, the president of the council shall become the acting mayor until the mayor's return. If the president of the council is unable to perform the duties of the acting mayor, then the member of council with the longest term of service may act temporarily for the president of the council.

d. Three councilmen and the mayor or, in the absence of the mayor, four councilmen shall constitute a quorum for transacting business.

e. The council may, at its annual meeting, establish for its members such committees of the council as will assist it for the ensuing year.

f. The council shall hold such other meetings, at such time and place as it may by resolution direct, but all regular meetings shall be held within the borough.

g. The mayor shall, when necessary, call special meetings of the council. In case of his neglect or refusal, any four members of the council may call such meeting at such time and place in the borough as they may designate, and in all cases of special meetings notice shall be given to all the members of the council, or left at their places of residence.

h. No officer who has obtained tenure by any provision of any section herein repealed by section 8 of this act shall be affected in any way by such repeal.

(Source: R.S. 40:88-1 to R.S. 40:88-3, and New.)

40A:60-4. General Powers.

Every borough governed by the borough form of government pursuant to this act shall, subject to the provisions of this act or other general law, have full power to exercise all powers of local government in such manner as its council may determine.

40A:60-5. Powers of the Mayor.

a. The mayor shall be the head of the municipal government.

b. The mayor shall have all those powers designated by general law.

c. The mayor shall preside at meetings of the council and may vote to break a tie.

d. Every ordinance adopted by the council shall, within five days after its passage, Sundays excepted, be presented to the mayor by the borough clerk. The mayor shall, within ten days after receiving the ordinance, Sundays excepted, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the clerk together with a statement setting forth his objections thereto or any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return the ordinance to the council, as prescribed above, or unless the council, upon consideration of the ordinance

following its return, shall, by a vote of two-thirds of all the members of council, resolve to override the veto.

e. No ordinance shall be passed, or appointment of any subordinate officer of the borough be confirmed, except by a vote of a majority of the members of the council present at the meeting, provided that at least three affirmative votes shall be required for such purpose, the mayor voting only in the case of a tie.

f. If any ordinance contains more than one distinct section, clause or item, the mayor may approve one or more thereof and veto the rest.

g. The mayor shall nominate and, with the advice and consent of council, appoint all subordinate officers of the borough, unless the specific terms of the general law clearly require a different appointment procedure. He shall make his nomination to any such office within thirty days of that office becoming vacant.

h. The mayor shall see to it that the laws of the State and the ordinances of the borough are faithfully executed. He shall recommend to the council such measures as he may deem necessary or expedient for the welfare of the borough. He shall maintain peace and good order and have the power to suppress all riots and tumultuous assemblies in the borough.

(Source: R.S. 40:87-16, R.S. 40:87-31, R.S. 40:88-1, R.S. 40:93-1, R.S. 40:93-3 to R.S. 40:93-8, R.S. 40:94-3 and New.)

40A:60-6. Powers of the Council.

a. The council shall be the legislative body of the municipality.

b. The council may, subject to general law and the provisions of this act:

(1) pass, adopt, amend and repeal any ordinance or, where permitted, any resolution for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law;

(2) control and regulate the finances of the municipality and raise money by borrowing or taxation;

(3) create such offices and positions as it may deem necessary. The officers appointed thereto shall perform the duties required by law and the ordinances of the council. Other than the borough attorney, engineer, and building inspector, these officers shall be resi-

dents of the borough and shall serve at the pleasure of the council, except the clerk, the tax collector and tax assessor who shall serve for terms as provided in chapter 9 of the Title 40A of the New Jersey Statutes. The council may exempt officers from the residency requirements but only pursuant to the adoption of an ordinance to that effect;

- (4) investigate any activity of the municipality;
- (5) remove any officer of the municipality, other than those officers excepted by law, for cause; and
- (6) override a veto of the mayor by a two-thirds majority of all the members of the council.

c. The council shall have all the executive responsibilities of the municipality not placed, by general law or this act, in the office of the mayor.

d. The council, whenever it fails to confirm the nomination by the mayor of any official to a subordinate office of the borough within thirty days of being presented such nomination, shall make the appointment to that office, provided that at least three affirmative votes shall be required for such purpose, the mayor to have no vote thereon except in the case of a tie.

(Source: R.S. 40:87-15 to R.S. 40:87-16, R.S. 40:93-7, and New.)

40A:60-7. Miscellaneous.

a. The borough council may, by ordinance, delegate all or a portion of the executive responsibilities of the municipality to an administrator, who shall be appointed pursuant to N.J.S. 40A:9-136.

b. The borough council may, by ordinance, adopt an administrative code. The administrative code shall restate the major provision of the borough's charter and the general law supplementing the charter. The administrative code shall set forth the manner in which the council shall perform its duties. If the council organizes itself into standing committees or if the council members serve as heads of departments with administrative control over said departments, the administrative code shall specify the powers and duties of such committees or department heads and the manner in which they are appointed. The administrative code shall set forth the titles of the principal municipal officers, how the officers are appointed, how they are organized into departments, boards, commissions, and other agencies; whom they supervise, by whom they are supervised;

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what powers they have; and what procedure should be followed to carry on the activities of the borough government. The administrative code shall not grant any power or authority, nor authorize any procedure, unless such power, authority or procedure is authorized implicitly by the wording of the statute or derived by reasonable implication therefrom.

c. The assets and liabilities of any board, commission or district created pursuant to the statutes repealed in section 40A:60-8 of this act shall be transferred to the municipality.

d. The borough council may create such advisory councils to the municipality as it may choose, including councils for the functions absorbed by it of any heretofore existing boards, commissions or districts.

40A:60-8. Statutes Repealed.

The following acts are hereby repealed:

R.S. 40:86-1 to R.S. 40:86-5

R.S. 40:87-1 to R.S. 40:87-9

R.S. 40:87-14 to R.S. 40:87-16

R.S. 40:87-29 to R.S. 40:87-30

P.L. 1939, c. 285, §1 (C. 40:87-30.1)

P.L. 1953, c. 424, §§1 to 3 (C. 40:87-30.2 to C. 40:87-30.4)

R.S. 40:87-31

R.S. 40:87-46 to R.S. 40:87-58

R.S. 40:88-1 to R.S. 40:88-3

R.S. 40:88-4 to R.S. 40:88-11

R.S. 40:88-13 to R.S. 40:88-17

R.S. 40:89-1 to R.S. 40:89-3

R.S. 40:90-1 to R.S. 40:90-4

P.L. 1981, c. 255 (C. 40:90-5 to C. 40:90-8)

R.S. 40:91-1 to R.S. 40:91-7

R.S. 40:92-1 to R.S. 40:92-7

P.L. 1950, c. 324, §1 (C. 40:92-7.1)

R.S. 40:92-8 to R.S. 40:92-11

R.S. 40:93-1 to R.S. 40:93-9

R.S. 40:94-1 to R.S. 40:94-6

P.L. 1933, c. 376

P.L. 1899, c. 209

P.L. 1929, c. 2

2. This act shall take effect January 1, 1988.

Approved January 8, 1988.

CHAPTER 380

AN ACT concerning the protection of shareholder rights and amending P.L. 1986, c. 74 and repealing section 7 of P.L. 1986, c. 74.

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

1. Section 3 of P.L. 1986, c. 74 (C. 14A:10A-3) is amended to read as follows:

C. 14A:10A-3 Definitions.

3. As used in this act:

a. "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person.

b. "Announcement date," when used in reference to any business combination, means the date of the first public announcement of the final, definitive proposal for that business combination.

c. "Associate," when used to indicate a relationship with any person, means (1) any corporation or organization of which that person is an officer or partner or is, directly or indirectly, the beneficial owner of 10% or more of any class of voting stock, (2) any trust or other estate in which that person has a substantial beneficial interest or as to which that person serves as trustee or in a similar fiduciary capacity, or (3) any relative or spouse of that person, or any relative of that spouse, who has the same home as that person.

d. "Beneficial owner," when used with respect to any stock, means a person:

(1) that, individually or with or through any of its affiliates or associates, beneficially owns that stock, directly or indirectly;

(2) that, individually or with or through any of its affiliates or associates, has (a) the right to acquire that stock (whether that right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding (whether or not in writing), or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the beneficial owner of stock tendered pursuant to a tender or exchange offer made by that person or any of that person's affiliates or associates until that tendered stock is accepted for purchase or exchange; or (b) the right to vote that stock

pursuant to any agreement, arrangement or understanding (whether or not in writing); provided, however, that a person shall not be deemed the beneficial owner of any stock under this subparagraph if the agreement, arrangement or understanding to vote that stock (i) arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the Exchange Act, and (ii) is not then reportable on a Schedule 13D under the Exchange Act (or any comparable or successor report); or

(3) that has any agreement, arrangement or understanding (whether or not in writing), for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in subparagraph (b) of paragraph (2) of this subsection), or disposing of that stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, that stock.

e. "Business combination," when used in reference to any resident domestic corporation and any interested stockholder of that resident domestic corporation, means:

(1) any merger or consolidation of that resident domestic corporation or any subsidiary of that resident domestic corporation with (a) that interested stockholder or (b) any other corporation (whether or not it is an interested stockholder of that resident domestic corporation) which is, or after a merger or consolidation would be, an affiliate or associate of that interested stockholder;

(2) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with that interested stockholder or any affiliate or associate of that interested stockholder of assets of that resident domestic corporation or any subsidiary of that resident domestic corporation (a) having an aggregate market value equal to 10% or more of the aggregate market value of all the assets, determined on a consolidated basis, of that resident domestic corporation, (b) having an aggregate market value equal to 10% or more of the aggregate market value of all the outstanding stock of that resident domestic corporation, or (c) representing 10% or more of the earning power or income, determined on a consolidated basis, of that resident domestic corporation;

(3) the issuance or transfer by that resident domestic corporation or any subsidiary of that resident domestic corporation (in one transaction or a series of transactions) of any stock of that resident

domestic corporation or any subsidiary of that resident domestic corporation which has an aggregate market value equal to 5% or more of the aggregate market value of all the outstanding stock of that resident domestic corporation to that interested stockholder or any affiliate or associate of that interested stockholder, except pursuant to the exercise of warrants or rights to purchase stock offered, or a dividend or distribution paid or made, pro rata to all stockholders of that resident domestic corporation;

(4) the adoption of any plan or proposal for the liquidation or dissolution of that resident domestic corporation proposed by, on behalf of or pursuant to any agreement, arrangement or understanding (whether or not in writing) with, that interested stockholder or any affiliate or associate of that interested stockholder;

(5) any reclassification of securities (including, without limitation, any stock split, stock dividend, or other distribution of stock in respect of stock, or any reverse stock split), or recapitalization of that resident domestic corporation, or any merger or consolidation of that resident domestic corporation with any subsidiary of that resident domestic corporation, or any other transaction (whether or not with, or into, or otherwise involving that interested stockholder), proposed by, on behalf of or pursuant to any agreement, arrangement or understanding (whether or not in writing) with, that interested stockholder or any affiliate or associate of that interested stockholder, which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of stock or securities convertible into voting stock of that resident domestic corporation or any subsidiary of that resident domestic corporation which is directly or indirectly owned by that interested stockholder or any affiliate or associate of that interested stockholder, except as a result of immaterial changes due to fractional share adjustments; or

(6) any receipt by that interested stockholder or any affiliate or associate of that interested stockholder of the benefit, directly or indirectly (except proportionately as a stockholder of that resident domestic corporation), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by or through that corporation; provided, however, that the term "business combination" shall not be deemed to include the receipt of any of the foregoing benefits by that resident domestic corporation or any of that corporation's subsidiaries arising from transactions (such as intercompany loans or tax sharing arrange-

ments) between that resident domestic corporation and its subsidiaries in the ordinary course of business.

f. "Common stock" means any stock other than preferred stock.

g. "Consummation date," with respect to any business combination, means the date of consummation of that business combination.

h. "Control," including the terms "controlling" "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract, or otherwise. A person's beneficial ownership of 10% or more of the voting power of a corporation's outstanding voting stock shall create a presumption that that person has control of that corporation. Notwithstanding the foregoing in this subsection, a person shall not be deemed to have control of a corporation if that person holds voting power, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more beneficial owners who do not individually or as a group have control of that corporation.

i. "Exchange Act" means the "Securities Exchange Act of 1934," 48 Stat. 881 (15 U.S.C. §78a et seq.) as the same has been or hereafter may be amended from time to time.

j. "Interested stockholder," when used in reference to any resident domestic corporation, means any person (other than that resident domestic corporation or any subsidiary of that resident domestic corporation or a bank holding company as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. §1841 et seq.) as amended, or any subsidiary of a bank holding company) that:

(1) is the beneficial owner, directly or indirectly, of 10% or more of the voting power of the outstanding voting stock of that resident domestic corporation; or

(2) is an affiliate or associate of that resident domestic corporation and at any time within the five-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding stock of that resident domestic corporation. For the purpose of determining whether a person is an interested stockholder pursuant to this subsection, the number of shares of voting stock of that resident domestic corporation deemed to be outstanding shall include shares deemed to be beneficially owned by the person through application of subsec-

tion d. of this section but shall not include any other unissued shares of voting stock of that resident domestic corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

k. "Market value," when used in reference to property of any resident domestic corporation, means:

(1) in the case of stock, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of that stock on the composite tape for New York Stock Exchange-listed stocks, or, if that stock is not quoted on that composite tape or if that stock is not listed on that exchange, on the principal United States securities exchange registered under the Exchange Act on which that stock is listed, or, if that stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of that stock during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System, or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of that resident domestic stock as determined by the board of directors of that corporation in good faith; and

(2) in the case of property other than cash or stock, the fair market value of that property on the date in question as determined by the board of directors of that resident domestic corporation in good faith.

l. "Preferred stock" means any class or series of stock of a resident domestic corporation which under the bylaws or certificate of incorporation of that resident domestic corporation is entitled to receive payment of dividends prior to any payment of dividends on some other class or series of stock, or is entitled in the event of any voluntary liquidation, dissolution or winding up of the resident domestic corporation to receive payment or distribution of a preferential amount before any payments or distributions are received by some other class or series of stock.

m. "Resident domestic corporation" means an issuer of voting stock which is organized under the laws of this State and, as of the stock acquisition date in question, has its principal executive offices located in this State or significant business operations located in this State.

n. "Stock" means:

(1) any stock or similar security, any certificate of interest, any participation in any profit sharing agreement, any voting trust certificate, or any certificate of deposit for stock; and

(2) any security convertible, with or without consideration, into stock, or any warrant, call or other option or privilege of buying stock without being bound to do so, or any other security carrying any right to acquire, subscribe to or purchase stock.

o. "Stock acquisition date," with respect to any person and any resident domestic corporation, means the date that that person first becomes an interested stockholder of that resident domestic corporation.

p. "Subsidiary" of any resident domestic corporation means any other corporation of which voting stock having a majority of the votes entitled to be cast is owned, directly or indirectly, by that resident domestic corporation.

q. "Voting stock" means shares of capital stock of a corporation entitled to vote generally in the election of directors.

2. Section 5 of P.L. 1986, c. 74 (C. 14A:10A-5) is amended to read as follows:

C. 14A:10A-5 Permissible business combinations.

5. In addition to the restriction contained in section 4 of this act, and except as provided in section 6 of this act, no resident domestic corporation shall engage at any time in any business combination with any interested stockholder of that resident domestic corporation other than a business combination specified in any one of subsection a., b. or c. of this section (the satisfaction of any one subsection being sufficient):

a. a business combination approved by the board of directors of that resident domestic corporation prior to that interested stockholder's stock acquisition date.

b. a business combination approved by the affirmative vote of the holders of two-thirds of the voting stock not beneficially owned by that interested stockholder at a meeting called for such purpose.

c. a business combination that meets all of the following conditions:

(1) the aggregate amount of the cash and the market value, as

of the consummation date, of consideration other than cash to be received per share by holders of outstanding shares of common stock of that resident domestic corporation in that business combination is at least equal to the higher of the following:

(a) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by that interested stockholder for any shares of common stock of the same class or series acquired by it (i) within the five-year period immediately prior to the announcement date with respect to that business combination, or (ii) within the five-year period immediately prior to, or in, the transaction in which that interested stockholder became an interested stockholder, whichever is higher; plus, in either case, interest compounded annually from the earliest date on which that highest per share acquisition price was paid through the consummation date at the rate for one-year United States Treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of common stock since that earliest date, up to the amount of that interest; and

(b) the market value per share of common stock on the announcement date with respect to that business combination or on that interested stockholder's stock acquisition date, whichever is higher; plus interest compounded annually from that date through the consummation date at the rate for one-year United States Treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of common stock since that date, up to the amount of that interest;

(2) the aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding shares of any class or series of stock, other than common stock, of that resident domestic corporation is at least equal to the highest of the following (whether or not that interested stockholder has previously acquired any shares of that class or series of stock):

(a) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by that interested stockholder for any shares of that class or series of stock acquired by it (i) within the five-year period immediately prior to the announcement date with respect to that business combination,

or (ii) within the five-year period immediately prior to, or in, the transaction in which that interested stockholder became an interested stockholder, whichever is higher; plus, in either case, interest compounded annually from the earliest date on which that highest per share acquisition price was paid through the consummation date at the rate for one-year United States Treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of that class or series of stock since that earliest date, up to the amount of that interest;

(b) the highest preferential amount per share to which the holders of shares of that class or series of stock are entitled in the event of any liquidation, dissolution or winding up of that resident domestic corporation, plus the aggregate amount of any dividends declared or due as to which those holders are entitled prior to payment of dividends on some other class or series of stock (unless the aggregate amount of those dividends is included in that preferential amount); and

(c) the market value per share of that class or series of stock on the announcement date with respect to that business combination or on that interested stockholder's stock acquisition date, whichever is higher; plus interest compounded annually from that date through the consummation date at the rate for one-year United States Treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of that class or series of stock since that date, up to the amount of that interest;

(3) the consideration to be received by holders of a particular class or series of outstanding stock (including common stock) of that resident domestic corporation in that business combination is in cash or in the same form as the interested stockholder has used to acquire the largest number of shares of that class or series of stock previously acquired by it;

(4) the holders of all outstanding shares of stock of that resident domestic corporation not beneficially owned by that interested stockholder immediately prior to the consummation of that business combination are entitled to receive in that business combination cash or other consideration for those shares in compliance with paragraphs (1), (2) and (3) of this subsection; and

(5) after that interested stockholder's stock acquisition date and prior to the consummation date with respect to that business combination, that interested stockholder has not become the beneficial owner of any additional shares of stock of that resident domestic corporation, except:

(a) as part of the transaction which resulted in that interested stockholder becoming an interested stockholder;

(b) by virtue of proportionate stock splits, stock dividends or other distributions of stock in respect of stock not constituting a business combination under paragraph (5) of subsection e. of section 2 of this act;

(c) through a business combination meeting all of the conditions of paragraph (3) and this paragraph; or

(d) through purchase by that interested stockholder at any price which, if that price had been paid in an otherwise permissible business combination, the announcement date and consummation date of which were the date of that purchase, would have satisfied the requirements of paragraphs (1), (2) and (3) of this subsection.

3. Section 6 of P.L. 1986, c. 74 (C. 14A:10A-6) is amended to read as follows:

C. 14A:10A-6 Exemptions.

6.a. Unless the certificate of incorporation provides otherwise, the provisions of this act shall not apply to any business combination of a resident domestic corporation with an interested stockholder if the resident domestic corporation did not have a class of voting stock registered or traded on a national securities exchange or registered with the Securities and Exchange Commission pursuant to section 12(g) of the Exchange Act, 48 Stat. 892 (15 U.S.C. §781) on that interested stockholder's stock acquisition date.

b. Unless the certificate of incorporation provides otherwise the provisions of this act shall not apply to any business combination with an interested stockholder who was an interested stockholder prior to the effective date of this act unless subsequent thereto that interested stockholder increased his or its interested stockholder's proportion of the voting power of the resident domestic corporation's outstanding voting stock to a proportion in excess of the proportion of voting power that interested stockholder held prior to the effective date of this act.

c. (Deleted by amendment, P.L. 1987, c. 380.)

d. The provisions of this act shall not apply to any business combination of a resident domestic corporation with an interested stockholder of that corporation which became an interested stockholder inadvertently, if such interested stockholder (1) as soon as practicable divests itself or himself of a sufficient amount of the voting stock of that resident domestic corporation so that he or it no longer is the beneficial owner, directly or indirectly, of 10% or more of the voting power of the outstanding voting stock of that corporation, or a subsidiary of that resident domestic corporation, and (2) would not at any time within the five-year period preceding the announcement date with respect to that business combination have been an interested stockholder but for that inadvertent acquisition.

e. The provisions of this act shall not apply to any business combination of a resident domestic corporation which is a "bank holding company" as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. §1841 et seq.) as amended, or a subsidiary of the bank holding company with an interested stockholder of that resident domestic corporation.

f. The provisions of this act shall not apply to any business combination of a resident domestic corporation with an interested stockholder of that corporation which, prior to August 5, 1986, became the beneficial owner of more than 50% of the voting power of the outstanding voting stock of that resident domestic corporation by reason of a purchase of voting stock directly from that resident domestic corporation in a transaction approved by the board of directors of that resident domestic corporation, provided that, at the time of the approval, none of the directors of the resident domestic corporation was an employee, officer, director, shareholder, affiliate or associate of the interested stockholder.

4. Section 9 of P.L. 1986, c. 74 is amended to read as follows:

9. This act shall take effect as of August 5, 1986.

5. This act shall take effect immediately.

Approved January 8, 1988.

CHAPTER 381

AN ACT providing for a title registration system for cooperative units in connection with proprietary leases issued by cooperative corporations and other cooperative entities, amending P.L. 1968, c. 49 and supplementing Title 46 of the Revised Statutes.

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

ARTICLE 1. INTRODUCTORY PROVISIONS

C. 46:8D-1 Short title.

1. (New section) This act shall be known and may be cited as "The Cooperative Recording Act of New Jersey."

C. 46:8D-2 Findings, declarations.

2. (New section) The Legislature finds that issuance of proprietary real estate leases by cooperative corporations and other cooperative legal entities is becoming a popular practice in New Jersey which is usually accomplished by a ledger book transfer to the lessee of stock or another indicia of ownership of an interest in the cooperative corporation or other cooperative entity which owns the real estate and that there is no public record of the transaction. The Legislature further finds that this is a hybrid transaction which is not capable of classification entirely as realty or personalty but that the public perception of a cooperative unit is that it in some manner involves real estate; that members of the public seek protection in cooperative leasing transactions similar to those protections available in transactions for the purchase of real estate, namely, a public title record, title searches to guarantee security of title, freedom from easements or rights in unknown third parties, unpaid liens, unsatisfied judgments, unpaid taxes, freedom from municipal violations, title insurance and the equivalent of a mortgage where a cooperative unit is the asset to be pledged as security for the purchase loan. The Legislature declares that enabling legislation in the form of a cooperative recording act is desirable because it would provide a title registration system for cooperative units and would provide additional revenue to county recording offices and to the State of New Jersey by applying the Realty Transfer Tax to proprietary leases issued by cooperatives and assignments thereof which are not presently covered by that tax.

C. 46:8D-3 Definitions.

3. (New section) As used in this act:

a. "Association" means the entity responsible for the administration of a cooperative which entity may be incorporated or unincorporated, profit or nonprofit.

b. "Bylaws" means the governing regulations adopted under this act for the administration and management of the property.

c. "Common elements" means:

(i) The land described in the master declaration or other documents creating the cooperative;

(ii) As to any improvement, the foundations, structural and bearing parts, supports, main walls, roofs, basements, halls, corridors, lobbies, stairways, elevators, entrances, exits and other means of access, excluding any specifically reserved or limited to a particular unit or group of units;

(iii) Yards, gardens, walkways, parking areas and driveways, excluding any specifically reserved or limited to a particular unit or group of units;

(iv) Portions of the land or any improvement or appurtenance reserved exclusively for the management, operation or maintenance of the common elements;

(v) Installations of all central services and utilities;

(vi) All apparatus and installations existing or intended for common use;

(vii) All other elements of any improvement necessary or convenient to the existence, management, operation, maintenance and safety of the cooperative property or normally in common use; and

(viii) Such other elements and facilities as are designated in the master declarations as common elements.

d. "Common expenses" means expenses for which the unit lessees are proportionately liable, including but not limited to:

(i) All expenses of administration, maintenance, repair and replacement of the common elements;

(ii) Expenses agreed upon as common by all lessees or co-owners; and

(iii) Expenses declared common by provisions of this act or by the master declaration or by the bylaws.

e. "Common receipts" means:

(i) Rent and other charges derived from leasing or licensing the use of common elements, or other areas of the building not leased or dedicated to exclusive use or possession by a specific lessee or co-owner;

(ii) Funds collected from lessees or co-owners as common expenses or otherwise;

(iii) Receipts designated as common by the provisions of this act or by the master deed or the bylaws.

f. "Cooperative" means any system of land ownership and possession in which the fee title to the land and structure is owned by a corporation or other legal entity in which the shareholders or other co-owners each also have a long term proprietary lease or other long term arrangement of exclusive possession for a specific unit of occupancy space located within the same structure.

g. "Limited common elements" means those common elements which are for the use of one or more specified units to the exclusion of other units.

h. "Master declaration" means the master declaration as amended and recorded under the terms of this act by which the owner in fee simple or lessee of the property submits it to a cooperative plan of ownership.

i. "Owner" means a person listed in the master register as a holder of shares in the cooperative entity.

j. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

k. "Proprietary lease" means a grant of a long term exclusive right of possession and occupancy of a designated unit to a co-owner or a grant of a leasehold of the cooperative structure.

l. "Unit" means a part of the cooperative structure designed or intended for occupancy and includes the proportionate undivided interest in the common elements and in any limited common elements as assigned in the provisions of the master declaration or any amendment thereof.

C. 46:8D-4 Recording of documents.

4. (New section) A county recording officer shall establish and maintain all appropriate books for the recording of documents which are entitled to be recorded under this act.

ARTICLE 2. CREATION OF THE COOPERATIVE**C. 46:8D-5 Plan of cooperative ownership.**

5. (New section) A plan of cooperative ownership is created by recording in the office of the county recording officer of the county wherein the land is located a master declaration and master register of all cooperative units allocated for separate occupancy, each of which documents shall be executed and acknowledged by all owners of the land and shall set forth the matters required by sections 6 and 7 of this act.

C. 46:8D-6 Master declaration.

6. (New section) The master declaration for a cooperative shall contain the following elements:

a. A legal description by metes and bounds and tax lot and block of the lands to be dedicated to the cooperative form of ownership.

b. A statement dedicating the land described in the master declaration to the cooperative form of ownership.

c. The name by which the cooperative is to be identified, which name shall include the word "Cooperative" or "Coop."

d. A copy of the recorded deed which vests ownership in the person who signs the master declaration to create the cooperative.

e. A copy of the certificate of incorporation or other organization form creating the association.

f. The bylaws which regulate the cooperative.

g. The master register containing the information required in section 7 of article 2 of this act.

h. A written description and architectural plans prepared to scale by an architect or engineer licensed in New Jersey which detail the improvements existing or to be erected on the lands to create the cooperative and identify the locations and dimensions of the common elements, limited common elements and each cooperative unit. The written description and architectural plans shall be signed, certified and scaled by an engineer or architect authorized to practice his profession in this State. The certification shall state that the descrip-

tion and plans are a correct and accurate representation of the improvements described and shown on the plans.

i. The number of votes which may be cast by each cooperative unit owner at any meeting of the cooperative unit owners.

j. A statement of existing financing which is a lien on the building and the manner in which the financing will be paid and discharged as a lien before or after closing of units.

k. A schedule of owners' percent of common elements which are part of their ownership of shares in the cooperative corporation and which represent their share of common expenses and common surplus.

l. Such other provisions, as may be desired, including but not limited to restrictions or limitations upon the use, occupancy, transfer, leasing or other disposition of any unit (if the restriction or limitation is otherwise permitted by law) and limitations upon the use of common elements.

m. A method of amending the master declaration which requires recording of any amendment in the same office as the master declaration before it becomes effective.

C. 46:8D-7 Master register.

7. (New section) The master register shall contain the following elements:

a. Separate identification of each unit by distinctive letter, name or number or combination thereof.

b. The percent of common ownership representing each owner's proportionate undivided interest in the common elements; the interests shall be stated as percentages aggregating 100%.

c. The name and present address of each present owner and occupant of each identified unit.

C. 46:8D-8 Fees.

8. (New section) The county recording officer in each county shall charge the fees prescribed for recording of real property documents for the recording of the documents required in sections 6 and 7 of this article.

C. 46:8D-9 Lands in more than one county, state.

9. (New section) Whenever a proposed cooperative plan involves lands located in more than one county or state, the proponent of the

cooperative shall comply with requirements of this article by recording the documents in each county or state in which any portion of the lands is located.

C. 46:8D-10 Amendments.

10. (New section) The master declaration or master register may be amended in the manner set forth therein; provided that no amendment shall affect any cooperative unit unless the possessor of record thereof and the holders of record of any liens thereon join in the execution of the amendment or execute a consent thereto with the formalities of a deed.

ARTICLE 3. TRANSFER OF COOPERATIVE UNIT

C. 46:8D-11 Contents of transfer document, short form memorandum.

11. (New section) The sale or transfer of a cooperative share by a proprietary lease or an assignment thereof or other like instrument is achieved by the recording of the transfer document or a short form memorandum thereof which is executed and acknowledged in recordable form and which contains the following information:

a. All information set forth in subsections a., b. and c. of section 7 of article 2 of this act and

b. The name of the cooperative as set forth in the master declaration and master register, the name of the political subdivision and county in which the property is located and a reference to the recording office, the book and page where the master declaration and master register and any amendment thereto are recorded.

c. The unit designation as set forth in the master declaration and register.

d. A reference to the last prior transfer of the unit, if previously transferred.

e. A statement of the proportionate undivided interest in the common elements appurtenant to the unit as set forth in the master declaration and master register or any amendments thereof.

f. The full name and address of the transferor and transferee of the unit.

g. An executed and acknowledged consent of the cooperative board of managers authorizing and approving the transfer or assignment.

h. The number of shares transferred.

i. A statement of the full consideration paid for the cooperative unit which includes the purchase price paid plus the amount derived from application of the percent of ownership held in conjunction with the unit to the unpaid balance of the fee or leasehold mortgage encumbering the entire structure as of the date of the transfer or assignment.

j. All other matters, consistent with this act, which the parties may deem appropriate.

C. 46:8D-12 Recording of documents.

12. (New section) The documents referred to in section 11 of this article shall be recorded in the office of the county recording office of the county wherein the land is located. The county clerk or register of deeds, as the case may be, hereinafter referred to as the "county recording officer" shall record the documents in the appropriate book for recording of real property instruments of the type presented plus the documents shall be recorded in the master register for the cooperative by indexing to the identified unit. The provisions of P.L. 1979, c. 406 (C. 46:16A-1 et seq.), commonly referred to as the "Real Property Notice of Settlement Act," are applicable. Each document submitted for recording shall be acknowledged, shall contain the name and signature of the person who prepared the document and shall otherwise be in form required for recordation of real estate documents.

13. Section 1 of P.L. 1968, c. 49 (C. 46:15-5) is amended to read as follows:

C. 46:15-5 Definitions.

1. As used in this act:

(a) "Deed" means a written instrument entitled to be recorded in the office of a county recording officer which purports to convey or transfer title to a freehold interest in any lands, tenements or other realty in this State by way of grant or bargain and sale thereof from the named grantor to the named grantee. A leasehold interest for 99 years or more or a proprietary lease of a cooperative unit and any assignment of a proprietary lease of a cooperative unit, shall be treated as a "freehold" for the purpose of this act. Instruments providing for common driveways, for exchanges of easements or rights-of-way, for revocable licenses to use, to adjust or to clear defects of or clouds on title, to provide for utility service lines such as drainage, sewerage, water, electric, telephone or other such service

lines, or to quitclaim possible outstanding interests, shall not be "deeds" for the purposes of this act.

(b) The terms "county recording officer" and "office of the county recording officer" mean the register of deeds and mortgages in counties having such an officer and office, and the county clerk and his office in the other counties.

(c) "Consideration" means in the case of any deed, the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title. The amount of liens for real property taxes, water or sewerage charges for the current or any subsequent year, or by way of added assessment or other adjustment, as well as of other like liens or encumbrances of a current and continuing nature ordinarily adjusted between the parties according to the period of ownership shall be excluded as an element in determining the consideration, notwithstanding that such amount is to be paid by the grantee.

In the case of a leasehold interest for 99 years or more as defined in subsection (a) of this section, the consideration shall be in the amount of the assessed value of the property at the date of the transaction for the purpose of levying local real property taxes adjusted to reflect the true value in accordance with the county percentage level established for the current year.

In the case of a proprietary lease of a cooperative unit or assignment thereof as defined in subsection (a) of this section, the consideration is the total price paid for the ownership interest held in conjunction with a cooperative unit, including the pro rata amount of any underlying mortgage or other obligation of the cooperative.

(d) "Blind person" means a person whose vision in his better eye with proper correction does not exceed 20/200 as measured by the Snellen chart or a person who has a field defect in his better eye with proper correction in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20°.

(e) "Disabled person" means any resident of this State who is permanently and totally disabled, unable to engage in gainful employment, and receiving disability benefits or any other compensation under any federal or State law.

(f) "Senior citizen" means any resident of this State of the age of 62 years or over.

(g) "New construction" means any conveyance or transfer of property upon which there is an entirely new improvement not previously occupied or used for any purpose.

(h) "Low and moderate income housing" means any residential premises, or part thereof, affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross income equal to 80% or less of the median gross household income for households of the same size within the housing region in which the housing is located, but shall include only those residential premises subject to resale controls pursuant to contractual guarantees.

C. 46:8D-13 Recording, indexing fees.

14. (New section) The transferee shall pay the recording fees for each instrument. In addition, the county recording officer shall levy and collect from the transferor, a fee of \$1.00 per page for indexing of the transfer in the master register for the cooperative.

ARTICLE 4. ASSESSMENTS, TAXES AND LIENS

C. 46:8D-14 Recording of liens.

15. (New section) a. The lender of funds secured by a promissory note and pledge of the stock and proprietary lease of a cooperative unit shall record its lien by the method of recordation provided in the applicable statutes. If the secured transactions laws of N.J.S. 12A:9-301 et seq. apply, the lender shall record its financing statement or security agreement in the office of the Secretary of State and the county recording office of the county in which any portion of the lands in which the cooperative unit is located.

b. In addition to the recording required pursuant to subsection a. of this section, the cooperative unit lender shall not have a perfected lien unless it records its lien in the master register for the cooperative in the county recording office of the county in which the cooperative unit is located. The lender shall pay to the county record-

ing officer a fee of \$1.00 per page for recording of its lien in the master register which shall be in addition to the recording fees applicable to regular recording of the documents.

C. 46:8D-15 Liens.

16. (New section) Any lien on a cooperative ownership interest is governed by the law designated in the instrument and selected by the lender for recordation of the lien. Any assignment, modification, release or discharge of the lien shall adhere to the recordation procedures set forth in the law selected by the lender; but each document or a summary memorandum thereof shall also be recorded in the master register for the cooperative at a recording fee of \$1.00 per page.

**ARTICLE 5. TERMINATION OF COOPERATIVE PLAN
OF OWNERSHIP**

C. 46:8D-16 Deed of revocation.

17. (New section) Any cooperative property may be removed from the provisions of this act by a deed of revocation duly executed by all unit lessees or the sole owner of the property and the holders of all mortgages or other liens affecting all units and recorded in the master register.

C. 46:8D-17 Resubmission permissible.

18. (New section) The removal of any property from the provisions of this act shall not bar the resubmission of the property to the provisions of this act in the manner herein provided.

C. 46:8D-18 Adherence to definition of "cooperative."

19. (New section) a. The Department of Community Affairs shall not accept for registration as a cooperative under "The Planned Real Estate Development Full Disclosure Act," P.L. 1977, c. 419 (C. 45:22A-21 et seq.), any offering plan which would not result in the creation of a "cooperative" as defined in subsection f. of section 3 of this act.

b. No tenant may be removed from a rental premises pursuant to the provisions of section 1 of P.L. 1974, c. 49 (C. 2A:18-61.1) on the grounds that the landlord or owner is converting the property into a cooperative unless the proposed conversion would result in the creation of a "cooperative" as defined in subsection f. of section 3 of this act.

20. (New section) This act applies to all cooperatives created within this State after the effective date of this act.

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

Approved January 8, 1988.

CHAPTER 382

AN ACT concerning workers' compensation coverage for certain volunteer and professional public safety and law enforcement personnel and supplementing Title 34 of the Revised Statutes.

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

C. 34:15-7.3 Injury, death while responding to emergency.

1. a. For any cardiovascular or cerebrovascular injury or death which occurs to an individual covered by subsection b. of this section while that individual is engaged in a response to an emergency, there shall be a rebuttable presumption that the injury or death is compensable under R.S. 34:15-1 et seq., if that injury or death occurs while the individual is responding, under orders from competent authority, to a law enforcement, public safety or medical emergency as defined in subsection c. of this section.

b. This section shall apply to:

- (1) Any permanent or temporary member of a paid or part-paid fire or police department and force;
- (2) Any member of a volunteer fire company;
- (3) Any member of a volunteer first aid or rescue squad; and
- (4) Any special, reserve, or auxiliary policeman doing volunteer duty.

c. As used in this section, "law enforcement, public safety or medical emergency" means any combination of circumstances requiring immediate action to prevent the loss of human life, the destruction of property, or the violation of the criminal laws of this State or its political subdivisions, and includes, but is not limited to, the suppression of a fire, a firemanic drill, the apprehension of a criminal, or medical and rescue service.

2. This act shall take effect immediately.

Approved January 8, 1988.

CHAPTER 383

AN ACT exempting certain medical equipment and diabetic supplies from the sales and use tax, amending P.L. 1980, c. 105.

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

1. Section 13 of P.L. 1980, c. 105 (C. 54:32B-8.1) is amended to read as follows:

C. 54:32B-8.1 Medical equipment exemption.

13. Receipts from the following are exempt from the tax imposed under the Sales and Use Tax Act: sales of medicines and drugs sold pursuant to a doctor's prescription for human use; over the counter drugs recommended and generally sold for the relief of pain, ailments, distresses or disorders of the human body; diabetic supplies; crutches, artificial limbs, artificial eyes, artificial hearing devices, corrective eyeglasses, prosthetic aids, artificial teeth or dentures, braces, tampons or like products, orthopedic appliances and artificial devices designed to correct or alleviate physical incapacity, medical oxygen, respiratory equipment, human blood and its derivatives when sold for human use, wheelchairs, transcutaneous electro-neuro stimulators (TENS units), durable medical equipment, and replacement parts for any of the foregoing.

As used in this section, durable medical equipment means equipment that: a. can withstand repeated use, b. is primarily and customarily used to serve a medical purpose, c. is generally not useful to a person in the absence of illness or injury, and d. is appropriate for use in the home.

Receipts from sales of medical equipment, durable medical equipment, and supplies, other than medicines and drugs, purchased for use in providing medical services for compensation, but not transferred to the purchaser of the service in conjunction with the performance of the service, shall be considered taxable receipts from retail sales notwithstanding the exemption from the sales and use tax provided under this section.

2. This act shall take effect immediately.

Approved January 8, 1988.

CHAPTER 384

AN ACT concerning the coverage under the State Health Benefits Program of certain retired public employees, amending P.L. 1964, c. 125, amending and supplementing P.L. 1961, c. 49, repealing section 16 of P.L. 1964, c. 125 and supplementing article 1 of 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:

1. Section 8 of P.L. 1961, c. 49 (C. 52:14-17.32) is amended to read as follows:

C. 52:14-17.32 Health benefits for retirees.

8. a. The basic coverage and the major medical coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his term of office or employment or upon cessation of active full-time employment subject to such regulations as may be prescribed by the commission for limited continuance of basic coverage and major medical coverage during disability, part-time employment, leave of absence or layoff, and for continuance of basic coverage and major medical coverage after retirement, any such continuance after retirement to be provided at such rates and under such conditions as shall be prescribed by the commission, subject, however, to the requirements hereinafter set forth in this section. The commission may also establish regulations prescribing an extension of coverage when an employee or dependent is totally disabled at termination of coverage.

b. Rates payable by retired employees for themselves and their dependents, by active employees for dependents covered by medicare benefits, and by the State or other employer for an active employee alone covered by medicare benefits, shall be determined on the basis of utilization experience according to classifications determined by the commission, provided, however, that the total rate payable by such retired employee for himself and his dependents, or by such active employee for his dependents and the State or other employer for such active employee alone, for coverage hereunder and for Part B of medicare, shall not exceed by more than 25%, as determined by the commission, the total amount which would have been required to have been paid by him and by the State or other employer for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for medicare benefits. "Medicare" as used in this act means the coverage provided

under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

c. (1) From funds appropriated therefor, the State shall pay the premium or periodic charges for the benefits provided to a retired State employee and his dependents covered under the program, but not including survivors, if such employee retired from a State-administered retirement system on a benefit based on 25 years or more of service credited in such retirement system, excepting the employee who elected deferred retirement, but including the employee who retired on a disability pension based on fewer years of service credited in such retirement system and shall also reimburse such retired employee for his premium charges under Part B of the federal medicare program covering the retired employee and the employee's spouse. In the case of full-time employees of the Rutgers University Cooperative Extension Service, service credited in the federal Civil Service Retirement System (5 U.S.C. §8331 et seq.) which was earned as a result of full-time employment at Rutgers University, may be considered alone or in combination with service credited in a State-administered retirement system for the purposes of establishing the minimum 25 year service requirement to qualify for the benefits provided in this section. Any full-time employee of the Rutgers University Cooperative Extension Service who meets the eligibility requirements set forth in this amendatory act shall be eligible for the benefits provided in this section, provided that at the time of retirement such employee was covered by the State Health Benefits Program and elected to continue such coverage into retirement.

(2) Notwithstanding the provisions of this section to the contrary, from funds appropriated therefor, the State shall pay the premium or periodic charges for the benefits provided to a retired State employee and his dependents covered under the program, but not including survivors, if: (a) the employee retires on or after the effective date of this 1987 amendatory act; (b) the employee was employed by Rutgers University prior to January 2, 1955 and remained in continuous service with Rutgers University until retirement even though the employee (i) did not join a State-administered retirement system, or, (ii) became a member of a State-administered retirement system, but accumulated less than 25 years of credited service; and (c) the employee is covered by the program at the time of retirement.

2. Section 7 of P.L. 1964, c. 125 (C. 52:14-17.38) is amended to read as follows:

C. 52:14-17.38 Other public employees.

7. The Division of Pensions shall certify to the certifying agent of each employer electing participation under the program the premium rates and periodic charges applicable to the coverage provided for employees and dependents. The participating employer shall remit to the division all contributions to premiums and periodic charges in advance of their due dates, subject to the rules and regulations of the commission.

The employer shall reimburse the active employee for his premium charges under Part B of the federal Medicare Program covering the employee and the employee's spouse.

From funds allocated therefor, the employer other than the State may pay the premium or periodic charges for the benefits provided to a retired employee and his dependents covered under the program, if such employee retired from a State or locally-administered retirement system on a benefit based on 25 years or more of service credited in such retirement system, excepting the employee who elected deferred retirement, but including the employee who retired on a disability pension based on fewer years of service credited in such retirement system, and may also reimburse such retired employee for his premium charges under Part B of the federal Medicare Program covering the retired employee and the employee's spouse. "Retired employee and his dependents" may, upon adoption of an appropriate resolution therefor by the participating employer, also include otherwise eligible employees, and their dependents, who retired from a State or locally-administered retirement system prior to the date that the employer became a participating employer in the New Jersey State Health Benefits Program. The term may also, upon adoption of an appropriate resolution therefor by the participating employer, include otherwise eligible employees, and their dependents, who did not elect to continue coverage in the program during such time after the employer became a participating employer that the employer did not pay premium or periodic charges for benefits to retired employees and their dependents pursuant to this section. Eligibility and enrollment of such employees and dependents shall be in accordance with such rules and regulations as may be adopted by the State Health Benefits Commission.

The employer other than the State may, by resolution, pay the premium or periodic charges for the benefits provided to the surviving spouse of a retired employee and his dependents covered under the program as provided in this section.

C. 52:14-17.32f Retired teachers' eligibility.

3. (New section) A qualified retiree from the Teachers' Pension and Annuity Fund (N.J.S. 18A:66-1 et seq.) and dependents of a qualified retiree, but not including survivors, are eligible to participate in the program, regardless of whether the retiree's employer participated in the program.

A qualified retiree is a retiree who:

- a. Retired on a benefit based on 25 or more years of service credit;
- or
- b. Retired on a disability pension based on fewer years of service credit.

A retiree who elected deferred retirement is not a qualified retiree.

The program shall reimburse a qualified retiree who participates in the program for the premium charges under Part B of the federal medicare program for the retiree and the retiree's spouse. A qualified retiree who retired prior to the effective date of this 1987 amendatory and supplementary act is eligible for the coverage if the retiree applies to the program for it within one year after the effective date.

The premium or periodic charges for benefits provided to a qualified retiree and the dependents of the retiree, and the cost for reimbursement of medicare premiums shall be paid by the Teachers' Pension and Annuity Fund. The State Health Benefits Commission shall annually certify to the fund the cost for providing health benefits coverage to qualified retirees and their dependents under this section. The fund shall annually remit to the commission the amount certified at a time specified by the State Treasurer.

Repealer.

4. Section 16 of P.L. 1964, c. 125 (C. 52:14-17.32a) is repealed.

5. This act shall take effect on the first day of the fourth month following the date of enactment, but shall remain inoperative unless and until Assembly Bill No. 4364 of 1987 and Assembly Bill No. 4365 of 1987 are enacted.

Approved January 8, 1988.

CHAPTER 385

AN ACT concerning the financing of pension adjustment benefits and health care benefits for retirees from the Teachers' Pension and Annuity Fund, amending N.J.S. 18A:66-18 and supplementing article 1 of chapter 66 of Title 18A of the New Jersey Statutes and P.L. 1969, c. 169 (C. 43:3B-1 et seq.).

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

1. N.J.S. 18A:66-18 is amended to read as follows:

Contingent reserve fund.

18A:66-18. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

- a. Upon the basis of such tables recommended by the actuary as the board of trustees adopts, and regular interest, the actuary of the board shall compute annually the amount of contribution, expressed as a proportion of the compensation paid to all members, except veteran members who were employed as teachers on January 1, 1955, which, if paid monthly during the entire prospective service of such members, will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account, and to provide for the amount of the death and accidental disability benefits payable on their account, and which amount is not covered by other contributions to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution."

- b. Upon the basis of such tables recommended by the actuary as the board of trustees adopts, and regular interest, the actuary of the board shall compute the amount of the unfunded liability as of March 31, 1987 which has accrued on the basis of service rendered prior to April 1, 1987 by all members, except veteran members who were employed as teachers on January 1, 1955, including the amount of the liability accrued by reason of the establishment of class B credit by nonveteran members which has not already been covered by State contributions to the retirement system, and including the accrued liabilities established by section 13 of chapter 66 of the laws of 1966. Using the total amount of this unfunded accrued liability, he shall compute the amount of the annual payments which, if paid

in each succeeding fiscal year commencing with July 1, 1987, for a period which the State Treasurer shall determine upon the advice of the director of the Division of Pensions, but not exceeding 40 years, will provide for this liability. This shall be known as the "accrued liability contribution."

c. Upon the basis of such tables recommended by the actuary as the board of trustees adopts, and regular interest, the actuary of the board shall compute annually the amount of the total liability for past service and all prospective service for veteran members who were employed as teachers on January 1, 1955, which has not already been covered by State and employer contributions to the retirement system and, except as provided by section 18A:66-70, by past or prospective contributions by such veteran members and which will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account, and to provide for the amount of death and accidental disability benefits payable on their account. Using the total amount of this liability remaining as a basis, he shall compute the amount of the flat annual payment, which, if paid in each succeeding fiscal year commencing with July 1, 1957, for a period of 30 years, will provide for this liability.

d. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section, and which shall be paid into the contingent reserve fund in the manner provided by section 18A:66-33.

e. Except as provided in sections 18A:66-26 and 18A:66-53, the death benefits payable under the provisions of this article upon the death of an active or retired member shall be paid from the contingent reserve fund.

f. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contribution of the State.

C. 18A:66-18.1 Funded as employer obligations.

2. (New section) Pension adjustment benefits for members and beneficiaries of the Teachers' Pension and Annuity Fund as provided by the "Pension Adjustment Act," P.L. 1969, c. 169 (C. 43:3B-1 et seq.) and health care benefits for qualified retirees and their dependents as provided by P.L. 1987, c. 384 (C. 52:14-17.32f) shall be paid by the retirement system from the contingent reserve fund and shall

be funded as employer obligations in a similar manner to that provided for the funding of employer obligations for the retirement benefits provided by the retirement system.

C. 43:3B-4a Pension adjustment benefits.

3. (New section) Notwithstanding the provisions of the "Pension Adjustment Act," P.L. 1969, c. 169 (C. 43:3B-1 et seq.), pension adjustment benefits provided under the act for members and beneficiaries of the Teachers' Pension and Annuity Fund shall be paid by the retirement system. The Director of the Division of Pensions shall annually certify to the Teachers' Pension and Annuity Fund the cost for providing pension adjustment benefits to members and beneficiaries. The retirement system shall annually remit to the Division of Pensions the amount certified at a time specified by the State Treasurer.

4. This act shall take effect on the first day of the fourth month following the date of enactment, but shall remain inoperative unless and until Assembly Bill No. 4363 of 1987 and Assembly Bill No. 4365 of 1987 are enacted.

Approved January 8, 1988.

CHAPTER 386

AN ACT concerning health insurance coverage of retired employees of certain boards of education and certain other employers and amending and supplementing P.L. 1979, c. 391.

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

1. Section 7 of P.L. 1979, c. 391 (C. 18A:16-18) is amended to read as follows:

C. 18A:16-18 Coverage after retirement.

7. The continuance of coverage after retirement of any employee shall be provided at such rates and under the conditions as shall be prescribed in the contract subject, however, to the requirements set forth in section 8 of P.L. 1979, c. 391 (C. 18A:16-19). The contribution required of any retired employee toward the cost of such coverage may be paid by the employee to the local board of education or in such other manner as the local board of education shall direct.

2. Section 8 of P.L. 1979, c. 391 (C. 18A:16-19) is amended to read as follows:

C. 18A:16-19 Payment by employees, employer.

8. a. Except as otherwise prescribed by P.L. 1979, c. 391 (C. 18A:16-12 et seq.), retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed adequate to cover the benefits, as affected by Medicare, of such retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of such older age classification; provided, however, that the total rate payable by such a retired employee for himself and his dependents, for coverage under the contract and for Part B of Medicare, shall not exceed by more than 25%, the total amount that would have been required to have been paid by the employee and the local board of education for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

b. The local board of education may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees who have retired after 25 years or more service with the local board of education, including the premiums on their dependents, if any, under such uniform conditions as the local board of education shall prescribe, except that retired employees and dependents who are eligible for and elect at the time of retirement to take State-paid coverage under the State Health Benefits Program pursuant to paragraph (2) of subsection b. of section 7 of P.L. 1964, c. 125 (C. 52:14-17.38) shall not be eligible for employer-paid coverage under this subsection.

3. (New section) Any retired employee of a local board of education or other employer which has entered into a group health insurance contract pursuant to the provisions of section 2 of P.L. 1979, c. 391 (C. 18A:16-13) who is not eligible for State-paid coverage for himself and his dependents under the State Health Benefits Program pursuant to paragraph (2) of subsection b. of section 7 of P.L. 1964, c. 125 (C. 52:14-17.38) and who on the effective date of this 1987 amendatory and supplementary act is not receiving coverage under such a contract through his former employer shall be entitled to coverage under the contract if he applies therefor within one year of that effective date to the local board of education or other employer from whose service he retired, provided that such coverage shall be subject to all other provisions of P.L. 1979, c. 391.

4. This act shall take effect on the first day of the fourth month after the date of enactment but shall remain inoperative unless and until Assembly Bill No. 4363 of 1987 and Assembly Bill No. 4364 of 1987 are enacted.

Approved January 8, 1988.

CHAPTER 387

AN ACT establishing substance abuse prevention, intervention, and treatment referral programs in the public schools, revising parts of the statutory law and making an appropriation.

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

C. 18A:40A-8 Findings, declarations.

1. The Legislature finds and declares that:

a. A significant number of young people are unfortunately already involved in the abuse of alcohol and other drugs;

b. Research indicates that particular groups of youngsters, such as the children of alcoholic parents, may in fact face an increased risk of developing alcohol and other substance abuse problems and that early intervention services can be critical in their prevention, detection and treatment; and

c. School-based initiatives have proven particularly effective in identifying and assisting students at a high risk of developing alcohol and other drug disturbances and in reducing absenteeism, decreasing the consumption of alcohol and other drugs, and in lessening the problems associated with such addictions.

C. 18A:40A-9 Definitions.

2. For the purposes of this act:

“Substance” shall mean alcoholic beverages, controlled dangerous substances as defined in section 2 of P.L. 1970, c. 266 (C. 24:21-2) or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system including, but not limited to, glue containing a solvent having the property of

releasing toxic vapors or fumes as defined in section 1 of P.L. 1965, c. 41 (C. 2A:170-25.9).

“Substance abuse” shall mean the consumption or use of any substance as defined herein for purposes other than for the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings.

C. 18A:40A-10 School substance abuse programs.

3. Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

C. 18A:40A-11 Evaluation, referral, discipline policies.

4. Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

C. 18A:40A-12 Pupil involvement procedure.

5. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined

pursuant to section 2 of this act, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a substance awareness coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to his or her home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that he or she is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a substance awareness coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

C. 18A:40A-13 Immunity for personnel.

6. No action of any kind in any court of competent jurisdiction shall lie against any teaching staff member, including a substance awareness coordinator, any school nurse or other educational personnel, medical inspector, examining physician or any other officer or agent of the board of education or personnel of the emergency room of a hospital because of any action taken by virtue of the provisions of this act, provided the skill and care given is that ordinarily required and exercised by other such teaching staff members, nurses, educational personnel, medical inspectors, physicians or other officers or agents of the board of education or emergency room personnel.

C. 18A:40A-14 Civil immunity for reporting.

7. Any teacher, guidance counselor, school psychologist, school nurse, substance awareness coordinator or other educational personnel, employed by or in any of the public or private schools of this State, who in good faith reports a pupil to the principal or his designee or to the medical inspector or school physician or school nurse in an attempt to help such pupil cure his abuse of substances as defined in section 2 of this act, shall not be liable in civil damages as a result of making any such report.

Nothing in this section is intended to preclude the protections provided in section 2 of P.L. 1971, c. 414 (C. 2A:62A-4) or otherwise provided by law.

C. 18A:40A-15 In-service training program.

8. a. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop an in-service training program for public school teachers to enable the teachers to recognize and respond to substance abuse by public school pupils. The program shall, at a minimum, include:

(1) Instruction to assist the teacher in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse;

(2) Appropriate intervention strategies; and,

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

The in-service training program required pursuant to this section shall be updated at regular intervals in order to insure that teaching staff members have the most current information available on this subject.

b. Each local board of education shall insure that all teaching staff members in the district who are involved in the instruction of pupils are provided with the in-service training program developed pursuant to this section. The in-service training program of the local board of education shall also include information concerning the policy of the board regarding the referral for treatment of pupils involved in substance abuse, as required pursuant to section 5 of this act.

C. 18A:40A-16 Guidelines, materials for program.

9. a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program

and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

C. 18A:40A-17 Outreach program.

10. a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

C. 18A:40A-18 Substance awareness coordinators.

11. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop and administer a program which provides for the employment of substance awareness coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a substance awareness coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's

plan to provide substance abuse prevention, intervention and treatment referral services to students through the employment of a substance awareness coordinator. Nothing shall preclude a district which employs a substance awareness coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban and rural districts from the north, central and southern geographic regions of the State with at least one school district per county. In addition to all other State aid 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 participating in the program shall receive from the State, for a three year period, the amount necessary to pay the salary of its substance awareness coordinator.

b. The position of substance awareness coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a substance awareness coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health shall jointly conduct orientation and training programs for substance awareness coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of substance awareness coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in-service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health shall implement a plan to collect data on

the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

C. 18A:40A-19 Pilot programs.

12. The Commissioner of Education is authorized to make grants to local school districts in such amounts as he shall determine, to assist the districts in the implementation of innovative pilot programs designed to educate pupils of elementary and secondary schools and members of the general public on the subject of substance abuse, and to prevent the abuse of those substances. Application for grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate administrative procedures for the proper and efficient implementation of the program. These pilot programs shall, at a minimum, include:

a. An early intervention competitive grant pilot program to be established by the Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, to enable local school districts to identify and assist elementary school pupils who are affected by family substance abuse problems or who are at risk of developing such problems themselves. The purpose of the program shall be to encourage the creation of effective model programs for the early identification of children at risk for substance abuse related problems and to provide for effective intervention when these children are identified.

Grants shall be awarded to boards of education through a competitive grant process based upon written applications submitted by local boards of education. The Commissioner of Education shall select not more than eight of the proposals submitted by boards of education for participation in the pilot program. The commissioner, in addition to considering the overall quality of each proposal and the likelihood that the proposal can be replicated in other districts, shall seek to achieve the broadest geographic distribution of recipients consistent with the purposes of this act.

b. The pilot program established in Ocean County by the Department of Education in conjunction with the Juvenile Services Unit in the Family Division of the Administrative Office of the Courts,

to coordinate the efforts of school and juvenile justice personnel in the county to combat alcohol and substance abuse by students.

The commissioner shall evaluate the effectiveness of the model program developed and tested pursuant to this section and disseminate information about successful model programs to school districts that do not participate in the pilot program.

C. 18A:40A-20 Annual report.

13. The Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, shall develop procedures for the evaluation of the impact of the programs established pursuant to this act and shall report annually to the Governor and the Legislature on the effects of these programs. That report shall include data concerning the incidence of substance abuse in the public schools; the nature and scope of intervention, prevention and treatment referral programs; an assessment of the impact of those programs on the problem of substance abuse; and, any recommendations for modifications in the programs established pursuant to this act.

C. 18A:40A-21 Rules, regulations.

14. The State Board of Education 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 to effectuate the purposes of this act.

15. There is appropriated from the General Fund to the Department of Education \$1,515,000, which funds shall be utilized as follows: \$65,000.00 for the development of the curriculum for parent education pursuant to sections 9 and 10 of this act; \$1,300,000.00 for the substance awareness coordinators pursuant to section 11 of this act; \$50,000.00 for the pilot program continued pursuant to subsection b. of section 12 of this act; and, \$100,000.00 for the pilot programs established pursuant to subsection a. of section 12 of this act.

Repealer.

16. The following acts and parts of acts are repealed:

P.L. 1971, c. 55 (C. 18A:4-28.10 through 18A:4-28.12);

P.L. 1971, c. 390 (C. 18A:40-4.1 and 18A:40-4.2);

Section 2 of P.L. 1979, c. 263 (C. 18A:35-4a).

17. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 388

AN ACT to authorize the presentation of distinguished service medals to residents who served in the organized militia or in federal military service on active duty in time of war or emergency and amending N.J.S. 38A:15-2.

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

1. N.J.S. 38A:15-2 is amended to read as follows:

Distinguished service medals.

38A:15-2. The Governor may present in the name of the State of New Jersey a distinguished service medal of appropriate design, and ribbon to be worn in lieu thereof, to any member of the organized militia who, while serving in any capacity in the organized militia under orders of the Governor, or while in federal service, shall distinguish himself by especially meritorious service and who has been or may be cited in orders for distinguished service by the Governor or by appropriate federal authority, or to any resident of the State of New Jersey, who while serving in the organized militia or in federal military service on active duty in time of war or emergency, shall distinguish himself by especially meritorious service and who has been or may be cited in orders for distinguished service by the Governor or by appropriate federal authority.

2. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 389

AN ACT providing for a comprehensive education program on the nature and effects of drugs, alcohol and controlled dangerous substances, supplementing Title 18A of the New Jersey Statutes, revising parts of the statutory law and making an appropriation.

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

C. 18A:40A-1 Instructional programs.

1. Instructional programs on the nature of drugs, alcohol and controlled dangerous substances, as defined in section 2 of P.L. 1970,

c. 226 (C. 24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

C. 18A:40A-2 Guidelines.

2. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol and controlled dangerous substance abuse and treatment. The guidelines shall provide for sequential course of study for each grade, K-12, and shall, at a minimum, include:

- a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;
- b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;
- c. Decision making and coping skills; and,
- d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

C. 18A:40A-3 In-service workshops, training programs.

3. a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish in-service workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol and controlled dangerous substances. The in-service training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems

appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the in-service training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial in-service training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing in-service training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

C. 18A:40A-4 Pre-service training.

4. In addition to the provisions for in-service training established pursuant to this act, the commissioner shall insure that the pre-service training of individuals intending to enter the teaching profession provides for an adequate treatment of the subject of substance abuse.

No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in (1) physiology and hygiene; and (2) substance abuse issues which includes material on the physiological, psychological, sociological and legal aspects of drug and alcohol abuse, methods of educating students on the negative effects of substance abuse, and intervention strategies for dealing with students engaged in substance abuse.

C. 18A:40A-5 Loan of materials to nonpublic pupils.

5. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of

Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

C. 18A:40A-6 Evaluation.

6. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish and administer a system for the evaluation of the effectiveness of instructional programs established pursuant to this act. Programs which are shown to be effective shall be made available to other school districts throughout the State.

C. 18A:40A-7 Rules, regulations.

7. The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary for the implementation of this act.

8. There is appropriated from the General Fund to the Department of Education \$30,000, of which amount \$20,000 shall be used for the development of the curriculum guidelines required pursuant to section 2 of this act and \$10,000 shall be used to support the in-service training provided pursuant to section 3 of this act.

Repealer.

9. The following acts or portions of acts are repealed:

N.J.S. 18A:26-8;

N.J.S. 18A:35-4;

P.L. 1968, c. 89 (C. 18A:4-28.1 through 18A:4-28.3);

P.L. 1970, c. 85 (C. 18A:4-28.4 through C. 18A:4-28.9);

Section 3 of P.L. 1979, c. 263 (C. 18A:4-28.13).

10. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 390

AN ACT establishing a demonstration program for the treatment of Huntington's Disease 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:

a. 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 time there is a very slow diminishing of an individual's capacity to function independently;

b. While most Huntington's Disease patients are cared for at home for as long as possible, intensive care in a residential facility is usually necessary during the latter stages of the disease due to the patient's increasing lack of motor control and coordination;

c. In New Jersey, there is no facility which provides the appropriate specialized residential care that the Huntington's Disease patient requires; and

d. Therefore, in order to ensure that Huntington's Disease patients can receive appropriate treatment and care when they are in the latter stages of the disease, it is necessary to establish a demonstration residential treatment program.

2. a. The Commissioner of the Department of Health shall establish a demonstration residential treatment program for persons with Huntington's Disease. The commissioner shall contract with a long-term care facility in the State to establish a unit in that facility which shall provide specialized treatment to no less than 15 and no more than 20 persons with Huntington's Disease.

b. The commissioner shall establish guidelines for a Huntington's Disease treatment unit and solicit proposals for establishing the Huntington's Disease treatment unit from profit and nonprofit long-term care facilities. The commissioner shall select from among the proposals the one which best meets the purposes of this act.

3. The commissioner shall report to the Governor and the Senate and General Assembly standing reference committees on health and human services 18 months from the effective date of this act on the cost and effectiveness of the demonstration program. The commissioner shall include in the report any recommendations for establishing additional Huntington's Disease programs in other facilities in the State.

4. There is appropriated \$300,000.00 from the General Fund to

the Department of Health to carry out the purposes of this act.

5. This act shall take effect immediately and shall expire 18 months following the date of enactment.

Approved January 13, 1988.

CHAPTER 391

AN ACT concerning agricultural labor and amending R.S. 43:21-4.

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

1. 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:

(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 va-

cation, 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, 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.

(4) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (1), (2), or (3) of this subsection, as applicable.

(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 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 residing 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 direc-

tor 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."

2. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 392

AN ACT establishing continuing education requirements for certain accountants and supplementing chapter 2B of Title 45 of the Revised Statutes.

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

C. 45:2B-17.1 Continuing education for public accountants.

1. a. The New Jersey State Board of Accountancy shall require any person certified or registered as a public accountant, as a condition for biennial registration pursuant to section 17 of P.L. 1977, c. 144 (C. 45:2B-17), to complete 48 credits of continuing professional education during each biennial period of certification or registration, pursuant to section 3 of this act. Persons who are engaged in the practice of public accounting or are involved with the attest function in issuing audit, review or compilation reports, shall have at least 16 of the required credits in the areas of auditing, review or compilation.

b. Each credit of continuing professional education required pursuant to subsection a. of this section shall represent or be equivalent to one hour of verified course attendance at a board approved course or seminar.

C. 45:2B-35.1 Requirement for municipal accountants.

2. a. The New Jersey State Board of Accountancy shall require any person registered as a municipal accountant, as a condition for biennial registration pursuant to section 3 of P.L. 1977, c. 176 (C. 45:2B-35), to complete 48 credits of continuing professional education during each biennial period of certification or registration, pursuant to section 3 of this act. Persons who are engaged in the practice of

municipal accounting shall have at least 16 of the required credits in the areas of auditing, review or compilation.

b. Each credit of continuing professional education required pursuant to subsection a. of this section shall represent or be equivalent to one hour of verified course attendance at a board approved course or seminar.

C. 45:2B-38 Standards; accreditation.

3. The board shall:

a. Establish standards for continuing professional education including the subject matter and contents of courses of study;

b. Accredite educational programs offering credit towards the continuing professional education requirements; and

c. Accredite other equivalent educational programs, such as teaching, conferences, professional seminars, technical reviews, courses with nonhourly attendance including home study courses, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

C. 45:2B-39 Waiver of requirements.

4. The board may, in its discretion, waive requirements for continuing professional education under this act on an individual basis for reasons of hardship such as health, military service, or other due cause and may establish a policy for the continuing education requirements for inactive or retired accountants who remain certified or registered.

C. 45:2B-40 Not required for initial renewal.

5. The board shall not require completion of continuing professional education credits as a condition for biennial registration as required in sections 1 and 2 of this act for the initial renewal of certification or registration.

C. 45:2B-41 Phase-in.

6. a. The board shall not require completion of continuing professional education credits as a condition for biennial registration as required in sections 1 and 2 of this act for any registration periods commencing within 12 months of the effective date of this act.

b. The board shall require completion of continuing professional education credits on a pro rata basis as a condition for biennial registration as required by sections 1 and 2 of this act for any regis-

tration periods commencing more than 12 but less than 24 months following the effective date of this act.

7. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 393

AN ACT to provide for the allocation of the State's volume cap on private activity bonds and the private activity portion of governmental bonds.

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

C. 49:2A-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Private Activity Bond Volume Cap Allocation Act."

C. 49:2A-2 Findings, determinations.

2. The Legislature finds and determines that:

a. The Internal Revenue Code of 1986, 26 U.S.C. §145 et seq., as amended, by the "Tax Reform Act of 1986," Pub.L. 99-514, hereinafter referred to as the "Code," imposes an annual limitation on the volume of tax-exempt private activity bonds and the private activity portion of governmental bonds issued after August 15, 1986.

b. The Code limits the annual volume of tax-exempt private activity bonds and the private activity portion of governmental bonds for the State of New Jersey to \$75.00 per resident for calendar year 1987 and \$50.00 per resident for calendar years thereafter, based on the most recent population estimate provided by the Bureau of the Census before the beginning of the calendar year to which the limitation applies.

c. The use of tax-exempt bonds is an effective and necessary method of financing programs for housing, water supply, sewerage treatment, hazardous waste treatment, storage and disposal, solid waste disposal, resource recovery and economic development, and such financing promotes and improves the health, safety, welfare and quality of life of the residents of the State.

d. The Code establishes a formula for allocation of the volume cap which, pursuant to subsection (e) of section 146 of the Code, was subject to temporary modification by gubernatorial executive order until December 31, 1987. The Code also permits the State to establish by law an alternative formula for allocating the volume cap.

e. In accordance with the Code, the Governor by Executive Order No. 147, has heretofore established procedures for the allocation of the State's volume cap on private activity bonds and the private activity portion of governmental bonds within the State under the interim authority provided by the Code.

f. There is a Statewide need to assure that the limited amount of tax-exempt private activity bond financing available is used in the most effective manner by issuers of bonds in the State in order to provide the greatest benefits to the State, and that need can best be met by authorizing the Governor to continue to allocate portions of the State's volume cap among issuers.

C. 49:2A-3 Definitions.

3. As used in this act:

a. "Bond" means a revenue obligation, security, bond, note, debenture, certificate or other evidence of indebtedness of an issuer.

b. "Carryforward" means that portion of the State volume cap for any calendar year which is unused during that calendar year and which is available to be carried forward to be used in later years pursuant to the Code.

c. "Federal formula" means the formula or formulas for allocation of the State volume cap now or hereafter established pursuant to the Code.

d. "Governmental bond" means any tax-exempt bond which is not a private activity bond.

e. "Issuer" means the State or any political subdivision of the State or any entity issuing bonds on behalf of the State or any political subdivision of the State.

f. "Private activity bond" and "private activity portion of governmental bonds" means a bond or portion thereof subject to any allocation of State volume cap pursuant to the Code.

g. "Tax-exempt bond" means a bond, note or other obligation the interest on which is not includable in federal gross income pursuant to section 103 of the Code.

h. "Volume cap" means the annual dollar limitation on the issuance of tax-exempt private activity bonds and the private activity portion of governmental bonds now or hereafter imposed on issuers by the Code.

C. 49:2A-4 Allocation of State volume cap.

4. a. In order to ensure that the limited amount of available tax-exempt private activity bond financing is used in the most effective manner by issuers, the Governor is authorized to establish a procedure for allocation of the State volume cap which procedure may provide for a reallocation formula that differs from the federal formula.

b. Any allocation procedure established by the Governor shall provide, by executive order or otherwise, that:

(1) The entire State volume cap be allocated to the Department of Treasury for reallocation by the State Treasurer;

(2) Any allocations made pursuant to this act be reviewed periodically and that unused allocations may be utilized for carryforward or rescinded for reallocation and carryforward, for reallocation, or for carryforward, as the case may be; and

(3) Any department of State Government or issuer receiving an allocation may establish guidelines and procedures with respect to that allocation and, if permitted, with respect to the reallocation and carryforward of that allocation or the reallocation, or carryforward of that allocation, as the case may be.

c. The allocation procedure and formula, if any, established by the Governor pursuant to this section shall be applicable to the allocation of the State volume cap for the 1988 calendar year, and, unless modified or revoked by further action of the Governor, shall be applicable to each calendar year thereafter.

C. 49:2A-5 Annual report.

5. The Governor shall submit to the Legislature, after January 1, 1988 and on or before January 20, 1988, and after January 1 and on or before January 20 annually thereafter, a written report providing a review of the allocation of the State's private activity bond volume ceiling during the preceding calendar year and the preliminary allocation anticipated for the current calendar year. If the information concerning the preliminary allocation is not available on each January 20, the Governor shall submit that information to the Legislature as soon as the information is available. The annual

report shall include for the year being reviewed and for the current calendar year, as may be applicable:

- a. A statement of the annual Statewide private activity bond volume ceiling;
- b. An explanation of any formula used or to be used for the allocation among issuers;
- c. The name of issuers granted any portion of the annual volume ceiling, the amount of the volume ceiling allocated to each issuer, the amount of bonds issued under the classifications of qualified private activity bonds set forth in section 141(d)(1) of the Code, a description of the nature of each bond issuance under the cap and the private business use applicable to the bonds, and any elective carryforward and reallocation and the use and purposes thereof; and
- d. A statement of guidelines, terms and conditions, and procedures established by any department of State Government or issuer promulgated under the authority of section 4 of this act and under the authority of any executive action taken thereunder, and any action concerning the allocation of the annual volume cap or any carryforward that is an exception or deviation from the standard guidelines, terms and conditions, and procedures.

The Governor shall also submit to the Legislature in writing, as soon as is possible, any modification or revocation of an allocation procedure or formula established pursuant to section 4 of this act.

6. This act shall take effect on January 1, 1988.

Approved January 13, 1988.

CHAPTER 394

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated from the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
EXECUTIVE BRANCH

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

07-2540 Development of Historical

Resources \$50,000

Special Purpose:

Black Historic Sites Survey (\$50,000)

2. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 395

AN ACT concerning certain auxiliary cable television equipment, and
amending and supplementing P.L. 1972, c. 186.

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

1. Section 3 of P.L. 1972, c. 186 (C. 48:5A-3) is amended to read
as follows:

C. 48:5A-3 Definitions.

3. As used in this act, except as the context may otherwise clearly
require or indicate:

a. "Board" means the Board of Public Utilities of the Depart-
ment of Energy of this State.

b. "Office" means the Office of Cable Television established by
this act.

c. "Director" means the Director of the Office of Cable Tele-
vision.

d. "Cable television system" or "CATV system" means any fa-
cility within this State which is operated or intended to be operated
to perform the service of receiving and amplifying the signals broad-
cast by one or more television stations and redistributing such signals
by wire, cable or other device or means for accomplishing such re-
distribution, to members of the public who subscribe to such service,

or distributing through its facility any television signals, whether broadcast or not; or any part of such facility. The term "facility" as used in this subsection includes all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a CATV company in providing service to its subscribers and customers.

e. "Cable television reception service" means the simultaneous delivery through a CATV system of the signals of television broadcast stations to members of the public subscribing to such service, which service may include additional nonbroadcast signals delivered as a part of the service with no additional charge.

f. "Cable communications system" or "cable communications service" means any communications service other than cable television reception service delivered through the facilities of a CATV system and for which charges in addition to or other than those made for cable television reception service are made or proposed to be made.

g. "Cable television company" or "CATV company" means any person owning, controlling, operating or managing a cable television system, and the term "person" as used herein shall be construed, without limiting the generality thereof, to include specifically any agency or instrumentality of this State or of any of its political subdivisions; but this definition shall not include a telephone, telegraph or electric utility company regulated by the Board of Public Utilities in a case where it merely leases or rents or otherwise provides to a CATV company wires, conduits, cables or pole space used in the redistribution of television signals to or toward subscribers or customers of such CATV company.

h. "Highway" includes every street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public.

i. "Certificate" means a certificate of approval issued, or which may be issued, by the board pursuant to this act.

j. "Cable television service" includes the definitions of cable television reception service and cable communications service herein, as well as the provision of any other impulse or signal by a cable television company or other service lawfully provided, utilizing the facilities of the system.

k. "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals.

l. "Hearing impaired individual" means an individual who, because of injury to, disease of, or defect in the inner, middle or outer ear, or any combination thereof, has suffered a loss of hearing acuity such that the individual cannot receive linguistic information without amplification, dubbing or captions.

m. "In series connection" means a connection where the coaxial service wire entering the residence of a subscriber connects first to a television receiver or monitor, with the television receiver or monitor being connected by coaxial wire to a video cassette recorder or other auxiliary equipment or where the coaxial service wire connects first to a video cassette recorder or auxiliary equipment, with the equipment being connected to a television receiver or monitor and where no external splitting device is used.

C. 48:5A-11.4 Equipment for hearing impaired individuals.

2. (New section) No CATV company shall charge or in any way penalize a subscriber for the possession or use of any auxiliary equipment designed to facilitate the reception of basic cable service by a hearing impaired individual and provided by the subscriber, unless this possession or use requires the company to provide additional service or equipment.

C. 48:5A-11.5 Unconnected auxiliary equipment.

3. (New section) No CATV company shall charge or in any way penalize a subscriber for the possession or use of a video cassette recorder, video disc, computer or other auxiliary equipment provided by the subscriber and either not connected to a television receiver or monitor, or connected by the subscriber to a television receiver or monitor through which cable service is not received.

C. 48:5A-11.6 Auxiliary equipment, in series.

4. (New section) No CATV company shall charge or in any way penalize a subscriber for the possession or use of a video cassette recorder, video disc, computer or other auxiliary equipment provided by the subscriber and connected by the subscriber, in series, to a television receiver or monitor through which cable service is received. This section shall not be applicable if the company provides additional service or equipment to the subscriber as a result of the connection by the subscriber; or if the connection by the subscriber qualifies as the provision of cable service by the company and the State regulation of the rates for that provision of cable service is

prohibited under the "Cable Communications Policy Act of 1984," Pub.L. 98-549 (47 U.S.C. §521 et seq.) or any other federal law, rule, regulation or order concerning cable television. This section shall not be construed as prohibiting a CATV company from waiving monthly charges should an external splitting device be provided by the CATV company without a converter.

C. 48:5A-11.7 Installation conditions.

5. (New section) Any connection made to a cable television system, either directly or indirectly, pursuant to the provisions of section 2 or 4 of this act shall be made in a manner as to prevent signal leakage, and so as not to otherwise interfere with the proper operation of the cable television system. In accordance with rules and regulations adopted by the director with the approval of the board, the installation shall be subject to inspection and approval by the CATV company for purposes of insuring that the installation is made in a manner as to prevent signal leakage and so as not to otherwise interfere with the proper operation of the cable television system.

Nothing in this act shall preclude a CATV company from charging its applicable charge for an ordinary service call.

C. 48:5A-11.8 Charge for connection services.

6. (New section) Nothing in this act shall be construed as prohibiting a CATV company from charging a subscriber for connection services rendered the subscriber for auxiliary equipment provided by the subscriber.

C. 48:5A-11.9 Ban unaffected.

7. (New section) Nothing in this act shall be construed as authorizing the use or possession of equipment prohibited by N.J.S. 2C:20-8.

8. This act shall take effect on the 30th day after enactment.

Approved January 13, 1988.

CHAPTER 396

AN ACT increasing the membership of the State Parole Board, and amending P.L. 1979, c. 441 and making an appropriation.

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

1. Section 3 of P.L. 1979, c. 441 (C. 30:4-123.47) is amended to read as follows:

C. 30:4-123.47 State Parole Board.

3. a. There is hereby created and established within the Department of Corrections a State Parole Board which shall consist of a chairman and eight associate members. The chairman and associate members shall be appointed by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. Members of the board shall be appointed for terms of six years and the terms of their successors shall be calculated from the expiration of the incumbent's term. Members shall serve until their successors are appointed and have qualified.

b. Any vacancy occurring in the membership of the board, otherwise than by expiration of term, shall be filled in the same manner as one occurring by expiration of term, but for the unexpired term only. In the event that any member of the board shall be rendered incapable of performing his duties, the Governor shall appoint a qualified person to act in his stead during the period of his incapacity. Any member of the board may be removed from office by the Governor for cause.

c. The members of the board shall devote their full time to the performance of their duties and be compensated pursuant to section 2 of P.L. 1974, c. 55 (C. 52:14-15.108).

d. At the time of appointment, the Governor shall designate two associate members of the board to serve on a panel on juvenile commitments. The remaining six associate members of the board shall be appointed by the Governor to panels on adult sentences. The chairman of the board shall assign four of the associate members so appointed to two panels on prison sentences, and the remaining two associate members so appointed to a panel on young adult sentences. The chairman of the board shall be a member of each panel. Nothing provided herein shall prohibit the chairman from reassigning any member appointed to a panel on adult sentences to facilitate the efficient function of the board.

2. There is appropriated to the State Parole Board from the General Fund the amount of \$95,000.00 for the salaries of the two additional members and support staff.

3. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 397

AN ACT concerning the study of development in and around Barnegat bay, creating the Barnegat Bay Study Group, and making an appropriation.

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

1. The Legislature finds that Barnegat bay in Ocean county is a valuable natural resource providing innumerable recreational, economic, and aesthetic benefits important to the welfare of the citizens of the State; that the conferral of these benefits is strongly dependent upon the water quality of Barnegat bay and the general vitality of the Barnegat bay ecosystem; and that the Barnegat bay area is currently experiencing intense development pressure which is adversely affecting its water quality and ecology.

The Legislature therefore declares that it is appropriate to conduct a study of the nature and extent of the impact of this development upon this valuable natural resource, to create the Barnegat Bay Study Group to supervise this study, and to develop an appropriate land use and environmental management plan for consideration by all levels of government.

2. As used in this act:

“Barnegat bay” means Barnegat bay, Silver bay, Manahawkin bay (North of State Route 72) and the tributaries thereof, including, but not limited to, Kettle creek, Metedeconk river, Toms river, Cedar creek, Forked river, and Gunning river;

“Bay area” means that area of Ocean county comprising Barnegat bay and all lands within the bay area municipalities located between Barnegat bay and the first public road of the bay area municipality;

“Bay area municipalities” means the Ocean county townships of Berkeley, Brick, Stafford, Barnegat, Ocean, Lacey, Long Beach, and Dover and the Ocean county boroughs of Bay Head, Lavallette, Mantoloking, Point Pleasant, Point Pleasant Beach, Seaside

Heights, Island Heights, South Toms River, Beachwood, Pine Beach, Ocean Gate, Barnegat Light, Harvey Cedars, Surf City, Ship Bottom, and Seaside Park;

“Consultant” means the person selected by the Barnegat Bay Study Group to conduct the study described pursuant to section 5 of this act;

“Department” means the Department of Environmental Protection;

“Plan” means the comprehensive land use and environmental management plan for the bay area prepared pursuant to subsection c. of section 6 of this act; and

“Study group” means the Barnegat Bay Study Group created pursuant to section 3 of this act.

3. a. There is created the Barnegat Bay Study Group, which shall be comprised of: the Commissioner of the Department of Environmental Protection, or his designee, who shall serve as chairman; a representative selected by the governing body of Ocean county; and four representatives from the bay area municipalities, to be elected at a meeting convened by and among the chief executive officers of the bay area municipalities as soon as may be practicable after the effective date of this act; two of whom shall be from the 9th legislative district, and two of whom shall be from the 10th legislative district.

b. Vacancies in the appointed positions on the study group shall be filled in the same manner as the original appointments were made.

c. Members of the study group shall serve without compensation, but the study group may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

d. The study group shall organize as soon as may be practicable 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. The study group may, within the limits of any funds appropriated or otherwise made available to it, appoint such staff or hire such experts as it may require.

e. The study group shall meet regularly as it may determine, and shall also meet at the call of the chairman or the Governor.

4. It shall be the duty of the study group to:

- a. supervise the preparation of the environmental inventory and the options paper which shall be developed by a consultant selected therefor pursuant to subsection c. of this section;
- b. review, and comment upon, the scope of services required of the consultant by the department;
- c. select the consultant from a list of applicants provided by the department;
- d. review, and comment upon, the periodic reports and all draft and final reports which shall be submitted by the consultant;
- e. confer with public interest organizations, trade associations, and similar groups which are interested in the results of the study or which represent persons that may be affected by any action taken by government based upon the results thereof; and
- f. review, and comment upon, the proposed plan prepared by the department pursuant to subsection c. of section 6 of this act.

The study group shall dissolve upon transmittal of the plan prepared by the department to the Legislature.

5. The study of the bay area conducted by the consultant shall:

- a. Develop an environmental inventory assessment of the Barnegat bay area which includes:
 - (1) A literature search on non-point pollution sources and their impact on estuarine environments, particularly in urban and suburban areas.
 - (2) An assessment of available data on current conditions and trends regarding:
 - (a) water quality in Barnegat bay and tributaries;
 - (b) qualitative and quantitative aspects of marine and estuarine shellfish, fish, and wildlife resources;
 - (c) environmentally sensitive areas and open space;
 - (d) hydrographic and navigability description of Barnegat bay;
 - (e) bay area municipality growth patterns over the previous 10 years;
 - (f) impervious paving coverage trends over the previous 10 years in bay area municipalities;

(g) current and projected land uses and land use patterns in bay area municipalities;

(h) an inventory and assessment of existing ordinances, policies and regulations available for utilization in the balancing of reasonable development with preservation and enhancement of the natural, aesthetic and recreational values of the bay area.

b. Develop an options paper utilizing the environmental inventory assessment which will:

(1) Assess whether land development in the bay area has reached such a level that further growth could not be accommodated without a significant effect upon the water quality of Barnegat bay or the general vitality of the bay area ecosystem, and, if that level has not yet been reached, determine the extent to which further growth can be so accommodated;

(2) Assess the navigability of Barnegat bay and make recommendations as to how it may be improved;

(3) Assess whether boat traffic on Barnegat bay has reached such a level that additional traffic could not be accommodated without a significant effect upon the water quality of Barnegat bay or the general vitality of the bay area ecosystem, or threat to the public health and safety, and, if that level has not yet been reached, determine the extent to which additional traffic can be so accommodated; and

(4) Develop appropriate standards and controls and institutional alternatives to be considered for adoption and application by all levels of government in those circumstances, if any, where additional growth may be permitted in the bay area.

6. It shall be the duty of the department to:

a. determine, after consulting with the study group, the scope of services which shall be required of the consultant;

b. solicit applicants for the position of consultant and compose a list thereof for consideration by the study group pursuant to subsection c. of section 4 of this act;

c. prepare a comprehensive land use and environmental management plan for the bay area based upon the study and the comments of the study group, which plan shall address the concerns about the impact of further development in the bay area and include rec-

ommendations for appropriate action by the Legislature, the department, other State agencies, Ocean county, and bay area municipalities;

d. submit the proposed plan to Ocean county and to bay area municipalities for review and comment; and

e. transmit the plan, within one year of the effective date of this act, together with any comments thereon provided by Ocean county and by bay area municipalities, to the Legislature on a day during which the Houses are both meeting during the course of a regular or special session, to Ocean county, and to bay area municipalities for their respective consideration.

7. Upon transmittal of the plan, the governing body of Ocean county and the governing body of each bay area municipality may determine whether the plan or any portion thereof should be implemented to minimize adverse impacts of development within its jurisdiction, and may adopt such ordinances or resolutions, as appropriate, as may be necessary to so effectuate its purposes.

8. a. The department shall apply a minimum of at least \$20,000.00 in grant moneys made available to it pursuant to the federal "Coastal Zone Management Act of 1972," as amended and supplemented (16 U.S.C. §1451 et seq.), to carry out the purposes of this act.

b. There is appropriated from the General Fund to the Department of Environmental Protection the sum of \$180,000.00 to carry out its responsibilities under this act.

9. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 398

AN ACT concerning the establishment of State-operated school districts, amending and supplementing P.L. 1975, c. 212 and amending P.L. 1979, c. 294.

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

1. (New section) The Legislature finds and declares that:

a. The New Jersey Constitution requires that the State maintain and support a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and 18;

b. In compliance with this mandate, the State Department of Education monitors school districts and during the monitoring process attempts to assist school districts with correcting any deficiencies identified by the monitoring;

c. The monitoring process may reveal some school districts which are unwilling or unable to correct the deficiencies identified during the process; and

d. The State Department of Education should be empowered with the necessary and effective authority in extreme cases to take over a local school district which cannot or will not correct severe and complex deficiencies in that school district.

2. Section 14 of P.L. 1975, c. 212 (C. 18A:7A-14) is amended to read as follows:

C. 18A:7A-14 Certification; levels II and III monitoring.

14. a. The commissioner shall review the results of the evaluations conducted and reports submitted pursuant to sections 10 and 11 of this act. If the commissioner shall find that a school district satisfies the evaluation criteria, the commissioner shall recommend that the State board certify the school district as providing a thorough and efficient system of education. If the commissioner shall find that a school district has failed to show sufficient progress toward the goals, guidelines, objectives and standards, including the State goal and any local interim goal concerning pupil proficiency in basic communications and computational skills, established in and pursuant to this act, the commissioner shall advise the local board of education of such determination, and shall direct that the district enter level II monitoring, as defined pursuant to law and regulation.

b. When a district enters level II monitoring, the commissioner shall direct the local board to prepare an improvement plan and submit the plan to the commissioner for approval. The improvement plan shall be based upon the school district's own internal review and assessment of those remedial activities necessary to correct those deficiencies noted in the evaluations and reports. If the commissioner approves the plan, the commissioner shall assure its implementation in a timely and effective manner. If the commissioner finds that the district is unsuccessful in correcting the deficiencies noted in the

evaluation process, the commissioner shall direct that the district enter level III monitoring, as defined pursuant to law and regulation. However, if the commissioner determines that a district is making reasonable progress toward correcting deficiencies, the commissioner may grant an extension for a specific period of time. During this extension the district will remain under level II monitoring. At the end of the extension the commissioner shall determine whether the district is eligible for certification or if the district must be directed to enter level III monitoring.

c. When a district enters level III monitoring the commissioner shall establish procedures whereby parents of students in the district may meet with the commissioner or the commissioner's representative to discuss their concerns and the commissioner shall designate the county superintendent to appoint an external review team whose members shall be qualified by training and experience to examine the conditions in the specific district. In conjunction with the Department of Education, the team shall examine all aspects of the district's operations including but not limited to education, governance, management and finance. In addition, the team should examine factors external to the district's schools which may contribute to the district's deficiencies in educational achievement and may recommend measures to mitigate the effects of those external factors in the schools. The team will report its findings and conclusions, including directives to be utilized by the district in the preparation of a corrective action plan to achieve certification, to the commissioner. The commissioner will direct the district to use the report of the external review team to establish a corrective action plan. The corrective action plan must be submitted to and approved by the commissioner. The commissioner shall assure that the local district's budget provides the resources necessary to implement the approved plan. The entire cost of those activities associated with the review team shall be paid by the Department of Education. If the commissioner finds, based upon the findings and directives of the review team and the Department of Education, that conditions within the district may preclude the successful implementation of a corrective action plan or that the district has failed to make reasonable progress in the implementation of a corrective action plan to achieve certification, the commissioner shall direct that a comprehensive compliance investigation be conducted by the Department of Education. If the commissioner directs that a comprehensive compliance investigation be conducted, the commissioner may order any necessary action to

insure the security of the books, papers, vouchers and records of the district.

d. Whenever a district in level III monitoring shall be required to implement an approved corrective action plan pursuant to this section, the commissioner shall determine the cost to the district of implementation of those portions of the corrective action plan which are directly responsive to the district's deficiencies as identified in the report of the external review team or, where applicable, by the commissioner. In making this fiscal assessment, the commissioner shall identify those aspects of the corrective action plan which are already contained in the district's current expense budget. Where appropriate, the commissioner shall reallocate funds within the district's budget to support the corrective action plan. Once reallocated, any transfers among line items of the district's budget may occur only with the commissioner's approval. The commissioner shall further determine the amount of additional revenue, if any, needed to implement the corrective action plan and shall recertify a budget for the district. The State shall provide additional State aid at the district's State support level on a current year basis for any portion of the budget recertified by the commissioner pursuant to this subsection that exceeds the original budget of the district for that fiscal year. Whenever the commissioner shall determine that conditions in a district in level III monitoring preclude successful implementation of a corrective action plan and shall order such a district into comprehensive compliance investigation, the district shall not be eligible for the additional State education aid made available pursuant to this subsection.

e. A comprehensive compliance investigation shall entail a thorough and detailed examination of a district's educational programs, fiscal practices, governance and management. Based on the investigation, the commissioner shall issue a report which will document any irregularities and list all those aspects of the corrective action plan established pursuant to subsection c. of this section which have not been successfully implemented by the district or the conditions which would preclude the district from successfully implementing a plan. A copy of this report shall be given to the district. The commissioner shall also order the local board to show cause why an administrative order, subject to the provisions of section 15 of this act and section 1 of P.L. 1987, c. 399 (C. 18A:7A-34) should not be implemented. The plenary hearing before a judge of the Office of Administrative Law, pursuant to the "Administrative Procedure

Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), upon said order to show cause shall be conducted in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes.

In the proceeding the State shall have the burden of showing that the recommended administrative order is not arbitrary, unreasonable or capricious.

3. Section 15 of P.L. 1975, c. 212 (C. 18A:7A-15) is amended to read as follows:

C. 18A:7A-15 Creation of State-operated school district.

15. If, after a plenary hearing, the commissioner determines that it is necessary to take corrective action, the commissioner shall have the power to order necessary budgetary changes within the district or other measures the commissioner deems appropriate to establish a thorough and efficient system of education with the exception of the creation of a State-operated school district. The commissioner shall assure that the local district's budget provides the resources necessary to implement the order. If the commissioner determines that the district has failed to take or is unable to take the corrective actions necessary to establish a thorough and efficient system of education, the commissioner shall recommend to the State board that it issue an administrative order creating a State-operated school district. Notwithstanding any other provision of law to the contrary and upon its determining that the school district is not providing a thorough and efficient system of education, the State board may direct the removal of the district board of education and the creation of a State-operated school district whose functions, funding and authority are defined in P.L. 1987, c. 399 (C. 18A:7A-34 et seq.). No order for the creation of a State-operated school district shall issue solely on the basis of a district's failure to correct substandard physical facilities. Nothing herein shall limit the right of any party to appeal the State board's order to the Superior Court.

4. Section 2 of P.L. 1979, c. 294 (C. 18A:22-8.1) is amended to read as follows:

C. 18A:22-8.1 Transfer of funds.

2. Whenever a school district desires to transfer amounts among line items and program categories, the transfers shall be by resolution of the board of education; however, a board may, by resolution, designate the chief school administrator to approve such transfers as are necessary between meetings of the board. Transfers approved by the chief school administrator shall be reported to the board, ratified

and duly recorded in the minutes at a subsequent meeting of the board, but not less than monthly. In a school district wherein the Commissioner of Education has directed a comprehensive compliance investigation pursuant to section 14 of P.L. 1975, c. 212 (C. 18A:7A-14), the board of education shall obtain the written approval of the county superintendent of school prior to implementing any transfer of funds.

C. 18A:7A-15.1 Authority of State board.

5. (New section) Pursuant to section 15 of P.L. 1975, c. 212 (C. 18A:7A-15), the State board shall have full authority to: a. remove the district board of education, b. create a State-operated school district, and c. appoint, upon recommendation of the commissioner, a State district superintendent of schools to direct all operations of the district, including the implementation of the administrative order. The State district superintendent of schools shall have all authority and powers previously vested in the district board of education.

6. This act shall take effect immediately, but shall remain inoperative until enactment of P.L. 1987, c. 399 (C. 18A:7A-34 et seq.).

Approved January 13, 1988.

CHAPTER 399

AN ACT concerning the governance of State-operated school districts, amending N.J.S. 18A:9-1 and N.J.S. 18A:10-1 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:7A-34 Creation of State-operated school district.

1. (New section) Whenever the Commissioner of Education shall determine after the issuance of an administrative order that a local school district has failed to assure a thorough and efficient system of education, the State Board of Education may issue an administrative order as set forth in section 15 of P.L. 1975, c. 212 (C. 18A:7A-15) which shall remove the district board of education and create a State-operated school district. The State-operated school district shall become effective immediately upon issuance of the administrative order by the State board.

C. 18A:7A-35 State district superintendent.

2. (New section) a. The schools of a State-operated school district shall be conducted by and under the supervision of a State district superintendent of schools appointed by the State board upon recommendation of the commissioner. The individual selected shall be qualified by training and experience for the particular district.

b. The State district superintendent shall be appointed for an original term not to exceed five years. Notwithstanding any other provision of law, no person so appointed shall acquire tenure nor shall the commissioner, with approval of the State board, be precluded from terminating the superintendent's services pursuant to the terms of the superintendent's individual contract of employment. For the purpose of the New Jersey Tort Claims Act, N.J.S. 59:1-1 et seq., the State district superintendent shall be considered a State officer.

c. The salary of the State district superintendent shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost for said salary and for the salaries of all persons appointed pursuant to this amendatory and supplementary act shall be an expense of the local school district.

d. The State district superintendent shall perform all the duties and possess all the powers heretofore and hereafter assigned in Title 18A of the New Jersey Statutes to central administrative and supervisory staff, instructional and noninstructional, which shall include but not be limited to the superintendent of schools, secretary of the board of education, school business administrator, school business manager, and assistants and clerks thereto.

e. Except as otherwise provided in this amendatory and supplementary act, the State district superintendent shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance and supervision of the schools in the district.

f. The State district superintendent may make, amend and repeal district rules, policies and guidelines, not inconsistent with law for the proper conduct, maintenance and supervision of the schools in the district.

g. The State district superintendent shall provide in each school a mechanism for parent, teacher and community involvement.

h. The State district superintendent shall ensure that the district is in compliance with all federal and State laws, rules and regulations

relating to equal employment opportunities, affirmative action and minority business opportunities.

C. 18A:7A-36 Certificate required.

3. (New section) No person shall be appointed to any position pursuant to this amendatory and supplementary act unless the person shall hold an appropriate certificate as prescribed by the State Board of Examiners.

C. 18A:7A-37 Corporate entity.

4. (New section) Notwithstanding the absence of a board of education, a State-operated school district shall remain a corporate entity.

C. 18A:7A-38 Powers of superintendent.

5. (New section) Except as otherwise provided in this amendatory and supplementary act, the State district superintendent in a State-operated school district shall have the power to:

- a. Enforce the rules of the State board; and
- b. Perform all acts and do all things, consistent with law and the rules of the State board, necessary for the lawful and proper conduct, equipment and maintenance of the public schools of the district.

C. 18A:7A-39 Authority of superintendent.

6. (New section) a. The State district superintendent of a State-operated school district may:

- (1) Sue in the district's corporate name and likewise submit to arbitration and determination disputes and controversies in the manner provided by law;
 - (2) Cause a report of the condition of the public schools and the public school property under the superintendent's control and an itemized account of the condition of the finances of the district to be printed and published as soon as practicable after the close of each school year; and
 - (3) Cause an exact census to be taken annually of all children residing in the district between the ages of five and 18 years, including such other information as he or she may deem necessary or proper and appoint, for the purpose of taking that census, as many suitable persons as may be necessary to act as enumerators and fix their compensation, which compensation shall be paid as a current expense.
- b. A State-operated school district may be sued under its corporate name.

c. State-operated school districts may join with local boards of education for the purpose of affording the districts those benefits which may accrue pursuant to P.L. 1983, c. 108 (C. 18A:18B-1 et seq.).

d. A State-operated school district shall be subject to all provisions of chapter 19 of Title 18A of the New Jersey Statutes except that all warrants for claims or expenditures approvable by a district board of education or any action required of a district board of education pursuant to chapter 19 shall be authorized by the State district superintendent.

e. Authority for the implementation of any provision of chapter 20 of Title 18A of the New Jersey Statutes relative to the acquisition and disposition of property which requires action by a district board of education shall, in a State-operated school district, be exercised by the State district superintendent.

f. The authority vested in boards of education by chapter 21 of Title 18A of the New Jersey Statutes shall in a State-operated school district be vested in the State district superintendent.

g. State-operated school districts shall be subject to all requirements set forth in chapter 18A of Title 18A of the New Jersey Statutes except that such determination as may be required of a district board of education by the provisions of said law shall be rendered by the State district superintendent.

C. 18A:7A-40 Collective bargaining agreements.

7. (New section) a. When the board of education is removed and a State-operated district is established, pursuant to section 1 of this amendatory and supplementary act, or when local control is re-established, pursuant to section 16 of this amendatory and supplementary act, collective bargaining agreements entered into by the school district shall remain in force, except where otherwise expressly provided in this amendatory and supplementary act.

b. Except where otherwise expressly provided in this amendatory and supplementary act, all teaching staff members and other employees of a State-operated district shall retain and continue to acquire all rights and privileges acquired pursuant to Title 18A of the New Jersey Statutes. After the reestablishment of local control in the district, the board shall preserve and recognize all rights and privileges acquired prior to and during the State operation of the district.

C. 18A:7A-41 Internal audit team.

8. (New section) There shall be established within a State-operated school district an internal audit team which shall monitor the business functions of the district and report its findings to the State district superintendent and the commissioner. The cost of providing this internal audit function shall be borne by the State.

C. 18A:7A-42 Officers, employees, consultants.

9. (New section) a. In a State-operated school district, all officers, employees and consultants, professional and nonprofessional, certified and noncertified, shall be employed or retained, transferred and removed as provided below:

(1) The State district superintendent may appoint, transfer and remove clerks, pursuant to the provisions of Title 11A (Civil Service) of the New Jersey Statutes and the provisions of N.J.S. 18A:17-1 et seq.

(2) The State district superintendent, subject to the approval of the commissioner, shall appoint and set the salaries of such State assistant superintendents as the superintendent shall deem necessary and assign to them their duties and responsibilities. No State assistant superintendent shall acquire tenure, notwithstanding any other provision of law.

(3) The State district superintendent of schools shall, subject to the approval of the commissioner or his designee, make all personnel determinations relative to employment, transfer and removal of all officers and employees, professional and nonprofessional, except that the services of the district auditor or auditors and attorney or attorneys shall be immediately terminated by creation of a State-operated school district pursuant to section 15 of P.L. 1975, c. 212 (C. 18A:7A-15).

b. The State district superintendent may delegate to subordinate officers or employees in the district any of the superintendent's powers and duties as the superintendent may deem desirable to be exercised under the superintendent's supervision and direction.

C. 18A:7A-43 Tenure rights.

10. (New section) Except as otherwise provided in this amendatory and supplementary act, any person serving under tenure or permanent civil service status shall retain all tenure rights and may continue to serve in the district pursuant to the provisions of this section. However, they shall perform only such duties as prescribed

or delegated by the State district superintendent and for which they may be appropriately certified.

C. 18A:7A-44 Abolition of administrative positions.

11. (New section) a. Notwithstanding any other provision of law or contract, the positions of the district's chief school administrator and those executive administrators responsible for curriculum, business and finance, and personnel shall be abolished upon creation of the State-operated school district. The affected individuals shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Any individual whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the district. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

b. The State district superintendent shall prepare a reorganization of the district's central administrative and supervisory staff and shall evaluate all individuals employed in central administrative and supervisory staff positions. Within six months of the establishment of the State-operated district the State district superintendent shall implement the reorganization.

c. Notwithstanding any other provision of law or contract, the positions of the central administrative and supervisory staff, instructional and noninstructional, other than those positions abolished pursuant to subsection a. of this section, shall be abolished upon the reorganization of the State-operated school district's staff. The State district superintendent may hire an individual whose position is so abolished, based upon the evaluation of the individual and the staffing needs of the reorganized district staff. These individuals shall be hired with tenure if they had tenure in their prior position. If they did not have tenure in their prior position, they may obtain tenure pursuant to the provisions of N.J.S. 18A:28-6. Individuals hired as State assistant superintendents shall not be hired with tenure and shall not acquire tenure. Employees or officers not hired for the reorganized staff shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Notwithstanding this limitation, nothing herein

shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved tuition costs. Any employee whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the employee may be entitled by virtue of tenure or seniority within the district. No employee whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

C. 18A:7A-45 Evaluations of principals.

12. (New section) a. The Commissioner of Education shall adopt criteria for the evaluation of building principals in a State-operated school district.

b. Upon appointment, the State district superintendent shall establish an assessment unit which shall conduct on-site evaluations of each building principal in accordance with the criteria established by the commissioner and render evaluation reports to the State district superintendent. No less than three evaluations shall be performed for each building principal within six months following the reorganization of the central administrative and supervisory staff required by section 11 of this act. All personnel records for building principals prepared before the establishment of the State-operated district shall be sealed upon issuance of the State Board of Education order establishing the State-operated school district.

c. Notwithstanding any other provision of law or contract, the State district superintendent, after completion of an assessment cycle of not less than 12 months, may dismiss any tenured building principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the criteria for principal performance in State-operated districts established by the commissioner pursuant to subsection a. of this section. Nothing herein shall preclude the dismissal of a tenured building principal prior to the completion of an assessment cycle of not less than 12 months if the basis for the dismissal is incapacity or unbecoming conduct. All dismissals of tenured building principals shall be conducted in accordance with the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except that the State district superintendent shall act as the board of education in all respects.

d. The commissioner and the Office of Administrative Law are empowered and directed to take any necessary action to expedite hearings for dismissal of tenured principals, including relaxation of any time requirements established by law or practice. In no event shall a hearing commence later than 45 days after certification of charges. Hearings shall be completed within 45 days of commencement. In no event shall a final decision be issued later than 120 days following the certification of charges.

e. Evaluations of building principals conducted by district personnel prior to the establishment of the State-operated school district shall not be admissible in a tenure hearing for any building principal except in the following circumstances:

(1) Evaluations of building principals performed by members of the State-operated school district's central administrative and supervisory staff who are hired by the State district superintendent to fill one of the positions in the reorganized central office of the State-operated district shall be admissible;

(2) Evaluations of building principals made by individuals who were no longer employed by the school district as of the date it became a State-operated school district shall be admissible only if the evaluation was performed more than five years preceding the date of the establishment of the State-operated district.

C. 18A:7A-46 Procedure for creation.

13. (New section) a. State-operated school districts shall be created only as provided pursuant to section 15 of P.L. 1975, c. 212 (C. 18A:7A-15).

b. State-operated school districts shall be conducted by and under the supervision of a State district superintendent appointed by the State Board of Education upon recommendation of the commissioner.

C. 18A:7A-47 Board of education.

14. (New section) Within 60 days, the commissioner shall establish a board of education consisting of not more than 15 persons from among the residents of the district. The membership of the board shall be representative of the community's racial and ethnic balance. Previous members of the board of education shall not be precluded from consideration for membership on this board. Of the 15 members, 13 shall be appointed by the commissioner and two shall be appointed by the local governing body of the municipality in which the school district is located. If the school district includes more than

one municipality, then the governing body of each constituent municipality shall have one appointment to the board and the number of appointments by the commissioner shall be reduced accordingly. If the local governing body fails to agree upon the selection of board members, then the commissioner may make the additional two appointments. All individuals appointed to the board shall meet all of the statutory requirements for membership on a board of education. Members of the board of education shall serve at the pleasure of the appointing authority. The board shall meet as soon as may be possible after its appointment and shall select a chairman and a vice-chairman from among its members.

The State district superintendent shall meet with the board of education at least once in each month and may meet more frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L. 1975, c. 231 (C. 10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

The commissioner, in consultation with the appropriate educational organizations, shall provide the members of the board of education with appropriate in-service training in school matters.

C. 18A:7A-48 Elections.

15. (New section) At the April school election in the fourth year following the creation of a State-operated school district, nine board members shall be elected from among the 15 appointed board members, three to serve a one year term, three to serve a two year term, and three to serve a three year term. If there are not nine members from the 15 appointed members who are willing to run for election, the commissioner shall retain the right to appoint the remaining members of the board. Following the election of the board, the State

district superintendent may bring matters before the board for a vote; however the State district superintendent shall retain veto power until such time as the State board determines that local control should be reestablished. In each subsequent year, three board members will be elected from the community at large.

C. 18A:7A-49 Reestablishment of local control.

16. (New section) a. The State district superintendent shall annually provide to the commissioner an assessment of the progress of the district toward meeting the requirements necessary for State certification. The commissioner shall formally report to the State board and to the Governor and the Legislature on the district's progress.

b. Based upon the annual assessment of progress and the district's having received State certification, but not sooner than five years after the establishment of the State-operated school district, the commissioner may recommend to the State board that local control be reestablished.

c. Upon a determination by the State board that local control should be reestablished, the State district superintendent and those members of the superintendent's staff appointed by operation of these laws relating to State-operated school districts shall continue to serve for a one year transition period upon conclusion of which their term of service shall expire without prejudice to the right of the district board of education to reappoint any or all such persons to similar positions within the district.

d. Not more than one year following the reestablishment of local control, the board shall conduct a special election for purposes of placing the question of classification status before the voters of the district.

e. If the voters of the district shall elect to become a type I district, it shall be governed by the provisions of chapter 9 of Title 18A of the New Jersey Statutes relating to type I districts after January 31 next ensuing, unless the district is established in a city of the first class, in which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

f. If the voters of the district shall so select that the district shall become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members

of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

g. If the commissioner cannot recommend that local control be reestablished in a district five years after the establishment of a State-operated school district, then the commissioner shall provide a comprehensive report to the State board and to the Governor and the Legislature, including a detailed analysis of the causes for the failure of the district to achieve certification and an assessment of the amount of time necessary for the continuation of the State-operated school district. On the basis of that report the State board shall determine whether to continue the State-operated school district or return the district to local control pursuant to this section.

C. 18A:7A-50 Budget; State aid.

17. (New section) The State district superintendent of a State-operated school district shall develop a budget on or before the first Tuesday in March and shall present this budget to the board of education to elicit the board's comments and recommendations. This budget shall conform in all respects with the requirements of chapter 22 of Title 18A of the New Jersey Statutes and shall be subject to the limitations on spending by local school districts otherwise required by P.L. 1975, c. 212 (C. 18A:7A-1 et seq.). The State-operated district shall receive current year funding of all State education aid based upon the budget prepared by the State district superintendent pursuant to section 19 of this act. For the purposes of this act "current year funding" shall mean that State aid shall be calculated on the basis of the budget for the school year in which the expenditures are made.

C. 18A:7A-51 Public hearing.

18. (New section) Upon the preparation of its budget, the State district superintendent shall fix a date, place and time for the holding of a public hearing upon the budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year, and the various items and purposes for which the same are to be appropriated, which hearing shall be held between the first Tuesday in March and March 18. Notice of the hearing, contents of the notice and the format and purpose of the hearing shall be as provided in N.J.S. 18A:22-11, N.J.S. 18A:22-12 and N.J.S. 18A:22-13.

C. 18A:7A-52 Certification by superintendent.

19. (New section) a. After the public hearing provided for by

section 18 of this amendatory and supplementary act but not later than March 18, the State district superintendent shall fix and determine the amount of money necessary to be appropriated for the ensuing school year and shall certify the amounts to be raised by special district tax for school purposes as well as the sum necessary for interest and debt redemption, if any, to the county board of taxation and the amount or amounts so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district. Within 15 days after the certification by the State district superintendent, the governing body of the municipality or municipalities comprising the district shall notify the State district superintendent of its intent to appeal to the commissioner the amount determined to be necessary to be appropriated for each item appearing in the proposed budget. The commissioner, upon receipt of the appeal from the governing body of the municipality or municipalities comprising the district and upon completion of the hearing process, shall determine the amount necessary for the district to provide a thorough and efficient educational program including the implementation of the plan to correct deficiencies.

b. Notwithstanding that the State-operated district shall receive current year funding of State education aid for its budget as prepared by the State district superintendent and as approved by the commissioner pursuant to subsection a. of this section, the governing body of the municipality or municipalities comprising the district may apply to the Director of the Division of Local Government Services in the Department of Community Affairs for a determination that the local share of revenues needed to support the district's budget results in an unreasonable tax burden. The director's findings of an unreasonable tax burden in a State-operated school district may be based on the overall school, county and municipal tax rates including any overlapping obligation of the community, cash deficit, insufficient percentage of tax collections, insufficient collection of other revenues, overanticipation of the revenues of prior years, nonliquidation of interfund transfers, reliance on emergency authorizations, continual rollover of tax anticipation notes, or other factors indicating a constrained ability to raise sufficient revenues to meet its budgetary requirements. In addition, the director's review may include but need not be limited to an analysis of the ratable base of the community, the per capita income of the residents of the district and the percentage of residents on a fixed income, cash reserves and receivables of the district including the availability of any deferred tax, the

ability of the community to dispose of property for which no public purpose is anticipated and all other current revenue raising capacity including procedures for collection which may permit greater anticipation of revenue.

c. Based upon his review, the director shall certify the amount of revenues which can be raised locally to support the budget of the State-operated district. Any difference between the amount which the director certifies and the total amount of local revenues required by the budget approved by the commissioner shall be paid by the State in the fiscal year in which the expenditures are made, subject to the availability of appropriations.

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

Classification of school districts.

18A:9-1. School districts shall be classified as type I and type II school districts, except that the State board may, by administrative order pursuant to its authority under section 15 of P.L. 1975, c. 212 (C. 18A:7A-15), create a State-operated school district.

21. N.J.S. 18A:10-1 is amended to read as follows:

Conduct of districts.

18A:10-1. The schools of each school district shall be conducted, by and under the supervision of a board of education, which shall be a body corporate and which shall be constituted and governed, as provided by this title, for a type I, type II or regional school district, as the case may be, but the State board pursuant to an administrative order issued by authority of section 15 of P.L. 1975, c. 212 (C. 18A:7A-15) may create a State-operated school district which shall be conducted by a State district superintendent.

22. This act shall take effect immediately, but shall remain inoperative until enactment of P.L. 1987, c. 398.

Approved January 13, 1988.

CHAPTER 400

AN ACT concerning the monitoring and evaluation of school districts, supplementing P.L. 1975, c. 212 (C. 18A:7A-1 et seq.), amending P.L. 1975, c. 16 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 declares that:

Under Article VIII, section IV, paragraph 1 of the New Jersey Constitution, the Legislature must maintain and support a thorough and efficient system of free public schools for all the children in the State.

Therefore, it is the responsibility of the Legislature to ensure that each school district in this State fulfills the obligation to provide quality education to all its pupils. In recognition of this responsibility, the Legislature has established the Joint Committee on the Public Schools, a permanent committee which is to conduct a continuing study of the finances, administration and operation of the State's public schools.

While the "Public School Education Act of 1975," P.L. 1975, c. 212 (C. 18A:7A-1 et seq.) directed the Commissioner of Education, with the approval of the State Board of Education, to develop a uniform Statewide system for evaluating the performance of each school, the law specifies that that system is to be reviewed by the Joint Committee on the Public Schools, since the fundamental constitutional responsibility cannot be delegated.

Given the scope of the changes in the "Public School Education Act of 1975" provided for by P.L., c. (C.) (now pending before the Legislature as the Assembly Committee Substitute for Assembly Bill No. 2926 3rd OCR), and the unprecedented nature of the proposal to create a State-operated school district pursuant to P.L., c. (C.) (now pending before the Legislature as Assembly Bill No. 2927 3rd OCR), it is imperative that the Joint Committee on the Public Schools monitor the implementation of this legislation in order to assess the impact of this initiative on the quality of public education in New Jersey.

C. 18A:7A-31.1 Reports on compliance investigation.

2. (New section) Whenever the Commissioner of Education directs the Department of Education to undertake a comprehensive compliance investigation of a local school district pursuant to section 14 of P.L. 1975, c. 212 (C. 18A:7A-14), the commissioner shall immediately inform the Joint Committee on the Public Schools, created pursuant to P.L. 1975, c. 16 (C. 52:9R-1), of that directive. The commissioner shall make the evaluation and monitoring reports regarding the district available to the committee, and shall keep the

committee apprised of the progress and the final outcome of the comprehensive compliance investigation.

C. 18A:7A-31.2 Information to Joint Committee.

3. (New section) Whenever the State Board of Education issues an administrative order establishing a State-operated school district pursuant to section 15 of P.L. 1975, c. 212 (C. 18A:7A-15), the commissioner shall immediately inform the Joint Committee on the Public Schools of that administrative order, and shall advise the committee as to the causes of the district's failure to achieve certification through local district initiatives.

C. 18A:7A-31.3 Corrective action plan; progress reports.

4. (New section) a. Within six months following the establishment of a State-operated school district, the commissioner shall present to the Joint Committee on the Public Schools the corrective action plan developed for the district.

b. On a periodic basis, but not less than once each year, the commissioner shall provide a detailed report to the committee on the progress made in the implementation of the corrective action plan and the prospects for the return of the district to local control.

c. The Joint Committee on the Public Schools, in cooperation with the commissioner, may develop a plan for monitoring the administration of a State-operated school district and the implementation of the corrective action plan. The plan developed by the committee shall include provisions for independent documentation and assessment.

C. 18A:7A-31.4 5-year report.

5. (New section) Five years following the effective date of this act, based upon the annual reports of the commissioner and its own independent assessment and evaluation, the Joint Committee on the Public Schools shall report to the Governor and the Legislature on the extent to which the legislation authorizing the establishment of State-operated school districts has facilitated the provision of a thorough and efficient system of education to the children of State-operated districts. The report shall detail the progress made in each State-operated district, and shall include any recommendations for changes in the legislation which the committee deems appropriate.

6. Section 1 of P.L. 1975, c. 16 (C. 52:9R-1) is amended to read as follows:

C. 52:9R-1 Joint Committee on the Public Schools.

1. There is hereby created a committee to be known as the "Joint

Committee on the Public Schools.” The committee shall consist of six members of the Senate, including two members of the Senate Education Committee, to be appointed by the President of the Senate and six members of the Assembly, including two members of the Assembly Education Committee, to be appointed by the Speaker of the General Assembly. No more than three of the members from each House shall be of the same political party. All members shall serve without compensation and vacancies in the membership of the committee shall be filled in the same manner as the original appointments are made.

7. There is appropriated from the General Fund to the Legislature \$95,000.00 to implement the provisions of this act.

8. This act shall take effect immediately.

Approved January 13, 1988.

CHAPTER 401

AN ACT concerning juveniles and amending P.L. 1982, c. 77.

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

1. Section 4 of P.L. 1982, c. 77 (C. 2A:4A-23) is amended to read as follows:

C. 2A:4A-23 Definition of delinquency.

4. Definition of delinquency. As used in this act, “delinquency” means the commission of an act by a juvenile which if committed by an adult would constitute:

- a. A crime;
- b. A disorderly persons offense or petty disorderly persons offense;
- or
- c. A violation of any other penal statute, ordinance or regulation.

But, the commission of (1) an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of or over the age of 17 years; (2) an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39 of the Revised Statutes by a juvenile of

any age; (3) an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes pertaining to pedestrians and bicycles, by a juvenile of any age; or (4) the commission of an act which constitutes a violation of P.L. 1981, c. 318 (C. 26:3D-1 et seq.), P.L. 1981, c. 319 (C. 26:3D-7 et seq.), P.L. 1981, c. 320 (C. 26:3D-15 et seq.), P.L. 1985, c. 185 (C. 26:3E-7 et seq.), P.L. 1985, c. 186 (C. 26:3D-32 et seq.), N.J.S. 2C:33-13, P.L. 1985, c. 318 (C. 26:3D-38 et seq.), P.L. 1985, c. 381 (C. 26:3D-46 et seq.), or of any amendment or supplement thereof, by a juvenile of any age; or (5) an act which constitutes a violation of chapter 7 of Title 12 of the Revised Statutes relating to regulation and registration of power vessels, by a juvenile of any age shall not constitute delinquency as defined in this act. The municipal court having jurisdiction over a case involving a violation by a juvenile of a section of Title 26 listed in this subsection, or N.J.S. 2C:33-13, shall forward a copy of the record of conviction in that case to the Family Part intake service of the county where the municipal court is located.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 402

AN ACT concerning automatic emergency stopping systems for vehicles using air brakes and supplementing article 3 of chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-68.1 Definitions.

1. As used in this act:

a. "Towing vehicle" means a road tractor or truck tractor.

b. "Towed vehicle" means a motor-drawn vehicle, pole trailer, semitrailer or trailer.

C. 39:3-68.2 Emergency stopping system.

2. Every vehicle or combination of vehicles using compressed air at the wheels for applying the service brakes shall be equipped with an emergency stopping system meeting the requirements of this section and capable of stopping the vehicle or combination of vehicles in the event of failure in the service brake air system as follows:

a. Towing vehicles which use compressed air at the wheels for applying the service brakes shall be equipped with a device with an automatic means of actuating an emergency stopping system on the towed vehicle. The device shall operate automatically in the event of a reduction of the service air brake supply of the towing vehicle to a fixed pressure which shall not be lower than 20 pounds per square inch nor higher than 45 pounds per square inch.

b. Towed vehicles shall be deemed to be in compliance with this section when:

(1) The towed vehicle is equipped with a no-bleed-back relay-emergency valve or equivalent device, so designed that the supply reservoir used to provide air for the brakes is safeguarded against backflow of air from the reservoir through the supply line; and

(2) The combination of vehicles is capable of stopping within the distance and under the conditions specified in subsections g. and h. of this section.

c. If the service brake system and the emergency stopping system are connected in any way, they shall be so constructed that a failure or malfunction in any one part of either system, including brake chamber diaphragm failure but not including failure in the drums, brakeshoes, or other mechanical parts of the wheel brake assemblies, shall not leave the vehicle without one operative stopping system capable of complying with the performance requirements in subsection g. of this section.

d. No vehicle or combination of vehicles upon failure of the service brake air system shall be driven on a highway under its own power except to the extent necessary to move the vehicles off the roadway to the nearest place of safety.

e. No vehicle or combination of vehicles shall be equipped with an emergency stopping system that creates a hazard on the highway, or increases the service brake stopping distance of a vehicle or combination of vehicles, or interferes in any way with the application of the service brakes on any vehicle or combination of vehicles.

f. Any energy-storing device which is a part of the emergency stopping system shall be designed so that it is recharged or reset from the source of compressed air or other energy produced by the vehicle, except that energy to release the emergency stopping system may be produced by the driver's muscular effort from the driver's seat. No device shall be used which can be set to prevent automatic delivery

of air to protected air supply reservoirs of motor vehicle emergency stopping systems when air is available in the service brake air supply system.

g. Every motor vehicle or combination of vehicles, at all times and under all conditions of loading, upon application of the emergency stopping system, shall be capable of stopping from a speed of 20 miles per hour in not more than the distance tabulated herein for its classification, this distance to be measured from the point at which movement of the emergency stopping system control begins.

EMERGENCY STOPPING SYSTEM REQUIREMENTS

Classification of vehicle and combination of vehicles	Stopping distance in feet
A. Passenger-carrying vehicles.	
(1) Vehicles with a seating capacity of 10 persons or less, including driver, and built on a passenger car chassis	54
(2) Vehicles with a seating capacity of more than 10 persons, including driver, and built on a passenger car chassis; vehicles built on a truck or bus chassis and having a manufacturer's Gross Vehicle Weight Rating of 10,000 pounds or less	66
(3) All other passenger-carrying vehicles	85
B. Property-carrying vehicles.	
(1) Single unit vehicles having a manufacturer's Gross Vehicle Weight Rating of 10,000 pounds or less	66

- (2) Single unit vehicles having a manufacturer's Gross Vehicle Weight Rating of more than 10,000 pounds, except truck tractors. Combinations of a 2-axle towing vehicle and trailer having a Gross Vehicle Weight Rating of 3,000 pounds or less. All combinations of 2 or less vehicles in driveaway or towaway operation 85
- (3) All other property-carrying vehicles and combination of property-carrying vehicles 90

h. Tests of deceleration and stopping distance shall be made on a substantially level dry, smooth, hard surface that is free from loose material and where the grade does not exceed plus or minus 1%. No test of emergency stopping system performance shall be made upon a highway at a speed in excess of 25 miles per hour.

i. The provisions of this section shall not apply to:

- (1) Auxiliary dollies, special mobile equipment, or special construction equipment; or
- (2) Disabled vehicles when being towed.

j. Every owner or lessee shall instruct and require that the driver be thoroughly familiar with the requirements of this section.

The driver of a vehicle or combination of vehicles required to comply with the requirements of this section shall be able to demonstrate the application and release of the emergency system on the vehicle and each vehicle in combination.

3. This act shall take effect immediately and shall apply only to vehicles manufactured on or after the January 1 next following enactment.

Approved January 14, 1988.

CHAPTER 403

AN ACT concerning certain waste and refuse containers and supplementing Title 27 of the Revised Statutes.

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

C. 27:5I-1 Parking of roll-off dumpsters.

1. a. No person shall park or leave unattended any waste or refuse container, commonly known as a roll-off dumpster or roll-off container, on or along any highway or public property, without the written consent of the appropriate municipal, county, or State authority having jurisdiction over the highway or public property. Consent shall be valid and remain in effect for a period of not more than 30 days, but may be renewed by the appropriate official upon application therefor.

To warn the operators of vehicles of the presence of a traffic hazard requiring the exercise of unusual care, any roll-off dumpster or roll-off container parked on or along any highway shall be equipped with and display markers consisting of all yellow reflective diamond-shaped panels having a minimum size of 18 inches by 18 inches. These panels shall be mounted at the edge of the dumpster or container at both ends nearest the path of passing vehicles and facing the direction of oncoming traffic. These markers shall have a minimum mounting height of three feet from the bottom of the panels to the surface of the roadway.

b. A person who is convicted of a violation of this section shall pay a fine of not more than \$100.00 for each violation. In default of the payment of a fine, imprisonment in the county jail for a period of not more than 90 days may be imposed.

The fine shall be paid over to the board or body charged with the maintenance of the road or highway upon which the violation occurs.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 404

AN ACT concerning limitations on actions against persons providing alcoholic beverages to others as social hosts, supplementing chapter 15 of Title 2A of the New Jersey Statutes, and amending P.L. 1973, c. 146.

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

C. 2A:15-5.5 Definitions.

1. (New section) As used in this act:

“Visibly intoxicated” means a state of intoxication accompanied by a perceptible act or series of actions which present clear signs of intoxication.

“Social host” means a person who, by express or implied invitation, invites another person onto an unlicensed premises for purposes of hospitality and who is not the holder of a liquor license for the premises and is not required to hold a liquor license for the premises under Title 33 of the Revised Statutes, and who legally provides alcoholic beverages to another person who has attained the legal age to purchase and consume alcoholic beverages.

“Vehicle” means a device primarily propelled by a motor that is used to transport a person or property.

“Person” means a natural person, the estate of a natural person, an association of natural persons, or an association, trust company, partnership, corporation, organization, or the manager, agent, servant, officer or employee of any of them.

C. 2A:15-5.6 Exclusive civil remedy.

2. (New section) a. This act shall be the exclusive civil remedy for personal injury or property damage resulting from the negligent provision of alcoholic beverages by a social host to a person who has attained the legal age to purchase and consume alcoholic beverages.

b. A person who sustains bodily injury or injury to real or personal property as a result of the negligent provision of alcoholic beverages by a social host to a person who has attained the legal age to purchase and consume alcoholic beverages may recover damages from a social host only if:

(1) The social host willfully and knowingly provided alcoholic beverages either:

(a) To a person who was visibly intoxicated in the social host's presence; or

(b) To a person who was visibly intoxicated under circumstances manifesting reckless disregard of the consequences as affecting the life or property of another; and

(2) The social host provided alcoholic beverages to the visibly intoxicated person under circumstances which created an unreasonable risk of foreseeable harm to the life or property of another, and the social host failed to exercise reasonable care and diligence to avoid the foreseeable risk; and

(3) The injury arose out of an accident caused by the negligent operation of a vehicle by the visibly intoxicated person who was provided alcoholic beverages by a social host.

c. To determine the liability of a social host under subsection b. of this section, if a test to determine the presence of alcohol in the blood indicates a blood alcohol concentration of:

(1) less than 0.10% by weight of alcohol in the blood, there shall be an irrebuttable presumption that the person tested was not visibly intoxicated in the social host's presence and that the social host did not provide alcoholic beverages to the person under circumstances which manifested reckless disregard of the consequences as affecting the life or property of another; or

(2) at least 0.10% but less than 0.15% by weight of alcohol in the blood, there shall be a rebuttable presumption, that the person tested was not visibly intoxicated in the social host's presence and that the social host did not provide alcoholic beverages to the person under circumstances which manifested reckless disregard of the consequences as affecting the life or property of another.

C. 2A:15-5.7 No liability to consumer.

3. (New section) No social host shall be held liable to a person who has attained the legal age to purchase and consume alcoholic beverages for damages suffered as a result of the social host's negligent provision of alcoholic beverages to that person.

4. Section 2 of P.L. 1973, c. 146 (C. 2A:15-5.2) is amended to read as follows:

C. 2A:15-5.2 Findings of fact.

2. In all negligence actions in which the question of liability is in dispute, including actions in which any person seeks to recover

damages from a social host as defined in section 1 of P.L. 1987, c. 404 (C. 2A:15-5.5) for negligence resulting in injury to the person or to real or personal property, the trier of fact shall make the following as findings of fact:

a. The amount of economic and noneconomic damages which would be recoverable by the injured party regardless of any consideration of negligence, that is, the full value of the injured party's damages.

b. The extent, in the form of a percentage, of each party's negligence. The percentage of negligence of each party shall be based on 100% and the total of all percentages of negligence of all the parties to a suit shall be 100%. In an action in which a person seeks to recover damages from a social host for negligence resulting in injury to the person or to real or personal property, the negligence of any person in becoming intoxicated shall be considered by the trier of fact, and the trier of fact shall allocate a percentage of negligence to that person.

c. The judge shall mold the judgment from the findings of fact made by the trier of fact.

C. 2A:15-5.8 Joint tortfeasors.

5. (New section) Notwithstanding the provisions of P.L. 1952, c. 335 (C. 2A:53A-1 et seq.), section 3 of P.L. 1973, c. 146 (C. 2A:15-5.3) or any other law to the contrary, in any case where a social host or any other party to a suit instituted pursuant to the provisions of this act is determined to be a joint tortfeasor, the social host or other party shall be responsible for no more than that percentage share of the damages which is equal to the percentage of negligence attributable to the social host or other party.

6. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 405

AN ACT concerning State matching grants for the construction of local sewerage projects, supplementing Title 58 of the Revised Statutes, and making an appropriation.

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

1. a. There is established in the Department of Environmental Protection a special, nonlapsing fund to be known as the "Wastewater Treatment Facility Matching Grant Fund." The Department of Environmental Protection shall use monies in the Wastewater Treatment Facility Matching Grant Fund solely for the purpose of providing State matching grants to the following counties, municipalities, or regional agencies or authorities in amounts equal to 8% of the approved cost of local sewerage projects which qualified for federal assistance during federal fiscal years 1984 and 1985 pursuant to the "Sewerage Facilities Aid Program," established pursuant to sections 11 to 20, inclusive, of P.L. 1979, c. 321 (C. 58:25-1 to 58:25-10):

<i>Federal I.D. Number</i>	<i>Municipality or Authority</i>
739-02	Wyckoff township
708-09	Camden County Municipal Utilities Authority—District 1
461-02	Landis Sewerage Authority
399-05	Hudson County Utilities Authority
433-03	Woodbridge township
345-01-2	Secaucus township
516-08-1	Mercer County Improvement Authority
416-10-1	Trenton City
372-07-1	Ocean County Utilities Authority
390-04-1	Wanaque Valley Regional Sewerage Authority
732-04	Cape May County Municipal Utilities Authority
387-06	Cape May County Municipal Utilities Authority
660-03	Cape May County Municipal Utilities Authority
661-07	Cape May County Municipal Utilities Authority
399-18	Hudson County Utilities Authority
451-03	Carteret borough
326-03	Middlesex County Utilities Authority
672-02	Old Bridge Township Sewerage Authority
435-02	Perth Amboy City

<i>Federal I.D. Number</i>	<i>Municipality or Authority</i>
435-03	Perth Amboy City
326-05	Sayreville borough
433-06	Woodbridge township
412-04	Asbury Park City
412-05	Deal borough
398-04	Manasquan River Regional Sewerage Authority
412-03	Ocean Township Sewerage Authority
372-09	Ocean County Utilities Authority
372-08	Ocean County Utilities Authority
486-05	North Haledon borough
447-02	Elizabeth City
462-01-2	Bayshore Regional Sewerage Authority
388-01-4	Hanover Sewerage Authority
471-02-5	Mountain Lakes borough
389-04-2	Rockaway Valley Regional Sewerage Authority
589-02-1	Eagleswood Township Municipal Utilities Authority
469-01-3	Warren Township Sewerage Authority
469-01-1	Warren Township Sewerage Authority
464-01-1	Northwest Bergen County Utilities Authority
387-06-01	Cape May County Municipal Utilities Authority
660-03-01	Cape May County Municipal Utilities Authority
283-01-03	Lower Township Sewerage Authority
369-02-D	Passaic Valley Sewerage Commission

b. No county, municipality, or regional agency or authority shall receive, pursuant to this act, an amount of State matching grant moneys for any individual local sewerage project which, when added to any amount of State matching grant moneys for the individual local sewerage project received pursuant to any other act, will equal an amount in excess of 8% of the approved cost of the individual local sewerage project.

c. Receipt of State matching grant monies made available pursuant to this act shall preclude a county, municipality, or regional agency or authority from eligibility for or receipt of a loan pursuant to P.L. 1985, c. 334 (C. 58:11B-1 et seq.) or P.L. 1985, c. 329 for the

same stage of work on a project, but shall not preclude eligibility for or receipt of a loan pursuant to the provisions of P.L. 1985, c. 334 (C. 58:11B-1 et seq.) or P.L. 1985, c. 329 for a different project or for a different stage of work on the same project. For the purposes of this subsection, "stage of work" on a project means a separate step of work on that project, and shall include, but not be limited to, the planning, design or construction stages or any subsidiary stage thereof.

d. The Department of Environmental Protection shall submit quarterly reports on disbursements from the Wastewater Treatment Facility Matching Grant Fund to the Joint Budget Oversight Committee or its designated successor. The Department shall not make any additions or deletions to the list of local sewerage projects contained in subsection a. of this section without the approval of the Joint Budget Oversight Committee or its designated successor.

2. There is appropriated \$30,000,000.00 from the General Fund to the Wastewater Treatment Facility Matching Grant Fund established pursuant to section 1 of this act.

3. While those counties, municipalities, regional agencies, and authorities listed in section 1 of this act shall be provided with State assistance for their sewerage facilities in the form of grants until depletion of those funds appropriated herein, any future State assistance provided for local sewerage projects shall be provided in the form of loans.

4. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 406

AN ACT providing for the regulation of insurance companies writing property and casualty insurance in this State, and supplementing Title 17 of the Revised Statutes.

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

C. 17:37B-1 Findings, declarations.

1. The Legislature finds and declares:

a. That the present crisis in commercial insurance, which is

characterized by the lack of availability and rapidly escalating insurance costs, has severely disrupted the economy of this State and has caused many of its small businesses to be without insurance protection entirely; and

b. While the crisis is due in part to significant increases in the frequency and severity of insurance claims and significant increases in the amount of personal injury litigation, it is also due to the cyclical nature of the insurance industry and the utilization by the industry of certain business practices which have proved to be detrimental to the financial condition of many insurers and to the functioning of the insurance system as a whole; and

c. While it is the duty of the several states to regulate the business of insurance, the present regulatory structure proved itself to be inadequate to detect the harmful business practices which were being pursued by the insurance industry, including imprudent cash-flow underwriting practices, the use of rates which were inadequate, and the use of reinsurers which were new entrants into the United States insurance market and unfamiliar with the operation of the American tort system; and

d. It is essential that the regulatory structure be modified in such a manner so that the State may be in a position to detect potential problems in the insurance system and to intervene to stop imprudent and harmful business practices before they have a catastrophic effect upon the market, similar to the present crisis.

C. 17:37B-2 Division of Property-Casualty Examination.

2. a. There is created in the Department of Insurance a Division of Property-Casualty Examination. The division shall perform all financial examinations of property and casualty insurers, as provided in this act and as otherwise provided by law.

b. The commissioner shall appoint at least the following full-time personnel to the division:

- (1) Six certified public accountants or other qualified individuals;
- (2) Two persons holding the degree of Master of Business Administration in fields related to the analysis of the financial condition of insurance companies;
- (3) One economist, who shall hold a doctoral degree.

c. When requested by the commissioner, the Attorney General shall assign one or more deputy attorneys general to represent the Department of Insurance in proceedings related to the financial

examination of insurance companies or other functions performed by the division pursuant to the provisions of this act.

d. The commissioner shall appoint clerical and other staff necessary for the division to carry out its responsibilities. These personnel shall be employed subject to the provisions of Title 11A of the New Jersey Statutes.

C. 17:37B-3 Additional duties of division.

3. a. In addition to any other duties otherwise prescribed by law, the division shall analyze the general business practices being followed by insurers writing the class or classes of insurance provided for in R.S. 17:17-1, including, but not limited to:

(1) The policies being followed by the insurer in procuring reinsurance; and

(2) The general pricing policies being utilized by the insurer, and the effect of those pricing policies upon the insurer's overall operations; and

(3) The investment policies being utilized by the insurer, and the effect of these policies upon the insurer's overall operations.

b. In addition to the duties prescribed by this act or otherwise prescribed by law, the division established pursuant to section 2 of this act shall, from time to time, examine the overall operation of the insurance market, with respect to commercial lines insurance and personal lines insurance. If the division finds that any business practice or practices being followed by any insurer or insurers will result in market instability, the lack of the availability of coverage, or will result in premiums which are excessive, inadequate or unfairly discriminatory, the division shall so report to the commissioner.

C. 17:37B-4 Definitions.

4. For the purposes of this act:

a. "Commissioner" shall mean the Commissioner of Insurance;

b. "Division" shall mean the Division of Property-Casualty Examination established by section 2 of this act.

C. 17:37B-5 Rules, regulations.

5. The commissioner shall promulgate rules and regulations as are necessary to carry out the purposes of this act.

6. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 407

AN ACT concerning surplus lines insurers and amending P.L. 1960, c. 32.

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

1. Section 11 of P.L. 1960, c. 32 (C. 17:22-6.45) is amended to read as follows:

C. 17:22-6.45 Eligibility as surplus lines insurer.

11. No surplus lines agent shall place any coverage with any unauthorized insurer which is not then an eligible surplus lines insurer as provided for under this section. No unauthorized insurer shall be or become an eligible surplus lines insurer unless made eligible by the commissioner in accordance with the following conditions:

(a) Eligibility of the insurer must be requested in writing by a licensed surplus lines agent;

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed, and must have been such an insurer for not less than one full year preceding; or must be the subsidiary of an admitted insurer or of an already eligible surplus lines insurer that has been so admitted or eligible for a period of not less than one full year preceding;

(c) Before granting eligibility the requesting surplus lines agent or the insurer shall furnish the commissioner with duly authenticated copies of its current annual financial statement, one in the language and monetary values of the country of the insurer, and the other in the English language and with all monetary values therein expressed in United States dollars, at the current exchange rate shown in the statement, and with such additional information relative to the insurer as the commissioner may require;

(d) The insurer shall establish satisfactory evidence of financial integrity, and:

(1) Have capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, which is not less than twice the amount of minimum capital and surplus required for like admitted insurers; except that any eligible insurer which does not possess on the effective date of this amendatory and supplementary act the minimum

capital and surplus requirements shall have three years from the effective date of this amendatory and supplementary act to comply therewith. In addition, an alien insurer shall maintain in the United States an irrevocable trust fund in a state or federally chartered bank in an amount not less than \$1,500,000.00 for the protection of all of its policyholders in the United States. The trust fund shall consist of cash, securities, letters of credit, or of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this State. The trust fund shall not be included in any calculation of capital and surplus or its equivalent and shall have an expiration date which at no time shall be less than five years. In lieu of the above capital and surplus requirements, and trust fund amount, any Lloyd's or other similar unincorporated group of alien individual insurers shall maintain a trust fund of not less than \$50,000,000.00 as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and the trust shall likewise comply with the terms and conditions hereinabove set forth. Any insurance exchange created by the laws of an individual state may be approved by the commissioner as an eligible insurer under the provisions of this section, and shall maintain capital and surplus, or the substantial equivalent thereof, of not less than \$35,000,000.00 in the aggregate. For insurance exchanges which maintain funds in an amount acceptable to the commissioner for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not less than \$2,000,000.00. In the event the insurance exchange does not maintain funds in an amount acceptable to the commissioner for the protection of all insurance exchange policyholders, each individual syndicate shall have capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, which is not less than twice the amount of minimum capital and surplus required for like admitted insurers. No insurance exchange approved as an eligible insurer by the commissioner shall be a member of the New Jersey Surplus Lines Insurance Guaranty Fund created pursuant to P.L. 1984, c. 101 (C. 17:22-6.70 et seq.) nor shall any claim against an exchange be deemed to be a covered claim pursuant to the provision of that act and

(2) Have caused to be provided to the commissioner a copy of its current annual statement certified by the insurer, which, relative to the period reported upon, is no more than 18 months old, and

which is either: (A) filed with and approved by the regulatory authority in the domicile of the unauthorized insurer; or (B) certified by an accounting or auditing firm licensed in the jurisdiction of the insurer's domicile. In the case of an insurance exchange, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported upon;

(e) The condition or methods of operation of the insurer must not be such as would render its operation hazardous to the public or its policyholders in this State;

(f) The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims;

(g) No insurer shall be eligible the management of which is found by the commissioner to be incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public; or which the commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations are or have been detrimental to policyholders, stockholders, investors, creditors or to the public;

(h) No insurer shall be eligible the voting control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by public insurance supervisory authority shall not be deemed to be an ownership, control, or operation of the insurer for the purposes of this subsection.

The commissioner shall from time to time publish a list of all currently eligible surplus lines insurers, and shall mail a copy thereof to each licensed surplus lines agent at his office last of record with the commissioner.

This section shall not be deemed to cast upon the commissioner any duty or responsibility to determine the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory

claims practices, and that the commissioner has no credible evidence to the contrary.

Where it appears that any particular insurance risk which is eligible for export, but insurance coverage thereon, in whole or in part, is not procurable from the eligible surplus lines insurers, then the surplus lines agent may file a supplemental affidavit stating such facts and advising the commissioner that such part of the risk as shall be unprocurable, as aforesaid, is being placed with named unauthorized insurers, in the amounts and percentages set forth in the affidavit. Such named unauthorized insurer shall, however, before accepting any risk in this State, deposit with the commissioner United States government bonds in an amount acceptable to the commissioner, which shall be held by said commissioner for the benefit of New Jersey policyholders only and the surplus lines agent shall procure from such unauthorized insurer and file with the commissioner a certified copy of its current annual statement of financial condition. If such deposit is made and the statement reveals, including both capital and surplus, net assets of at least \$500,000.00 consisting of at least \$300,000.00 liquid assets, then the surplus lines agent may proceed to consummate the contract of insurance. Whenever any insurance risk or any part thereof is placed with an unauthorized insurer, as provided herein, the policy, binder or cover note shall bear conspicuously on its face in boldface type the following notation: "All or some of the insurers participating in this risk have not been admitted to transact business in the State of New Jersey, nor have they been approved as a surplus lines insurer by the insurance commissioner of this State. The placing of such insurance by a duly licensed surplus lines agent in this State shall not be construed as approval of such insurer by the insurance commissioner of the State of New Jersey." All other provisions of this Title shall apply to such placement the same as if such risks were placed with an eligible surplus lines insurer.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 408

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, 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	
05-2530 Support of the Arts	\$75,000
Special Purpose:	
Rahway Landmarks, Inc.	(\$75,000)

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 409

AN ACT establishing interim casino authorization, amending and supplementing P.L. 1977, c. 110, and repealing section 137 of P.L. 1977, c. 110.

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

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

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

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

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

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

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

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

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

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

(5) Restricting the issuance of casino licenses to major hotel and convention facilities is designed to assure that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City is preserved, and that the casino rooms licensed pursuant to the provisions of this act are always offered and maintained as an integral

element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.

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

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

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license,

registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

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

(10) Since the development of casino gaming operations in Atlantic City will substantially alter the environment of New Jersey's coastal areas, and since it is necessary to insure that this substantial alteration be beneficial to the overall ecology of the coastal areas, the regulatory and investigatory powers and duties conferred by this act shall include, in cooperation with other public agencies, the power and the duty to monitor and regulate casinos and the growth of casino operations to respond to the needs of the coastal areas.

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

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

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the provisions of this act, which provisions are designed to engender and maintain

public confidence and trust in the regulation of the licensed enterprises, to provide an effective method of rebuilding and re-developing existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

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

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

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

(17) A system whereby the satisfaction of certain appropriate criteria, including the execution of a voting trust agreement, permits temporary casino operation prior to licensure and whereby the suspension or revocation of casino operations under certain appropriate circumstances causes the imposition of a conservatorship upon the suspended or revoked casino operation serves both the economic and law enforcement interests involved in casino gaming operations.

2. Section 73 of P.L. 1977, c. 110 (C. 5:12-73) is amended to read as follows:

C. 5:12-73 Meetings and quorum.

73. Meetings and Quorum. a. Meetings of the commission will be held at the discretion of the chairman at such times and places as he may deem necessary and convenient, or at the call of three members of the commission.

b. The commission shall in all respects comply with the provisions of the "Open Public Meetings Act" (P.L. 1975, c. 231; C. 10:4-6 et seq.).

c. Any other law, rule or regulation to the contrary notwithstanding, the commission shall take all necessary steps to ensure that all interested persons are given adequate notice of commission meetings, and the agenda of such meetings, through the utilization of all media engaged in the dissemination of information.

d. A majority of the full commission shall determine any action of the commission, except that no casino license or interim casino authorization may be issued without the approval of four members. In the event that a vacancy has existed in the commission for more than 60 days, a majority of the full commission may act with respect to any matter, including the issuance of a casino license or interim casino authorization.

(New Article) INTERIM CASINO AUTHORIZATION

C. 5:12-95.12 Applicability and requirements.

3. (New section) Applicability and Requirements.

a. Except as provided in subsection b. of this section, whenever any person contracts to transfer any property relating to an ongoing casino operation, including a security holding in a casino licensee or holding or intermediary company, under circumstances which require that the transferee obtain casino licensure under section 82 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-82), or qualification under section 84 or 85 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-84 and 5:12-85), the contract shall not specify a closing or settlement date which is earlier than the 121st day after the submission of a completed application for licensure or qualification, which application shall include a fully executed and approved trust agreement in accordance with section 5 of this 1987 amendatory and supplementary act. Any contract provision which specifies an earlier closing or settlement date shall be void for all purposes. Subsequent to the earlier of the report of the division on interim authorization or the 90th day after the timely submission of the completed application, but no later than the closing or settlement date, the commission shall hold a hearing and render a decision on the interim authorization of the applicant. If the commission grants interim authorization, then, subject to the provisions of sections 3 through 7 of this 1987 amendatory and supplementary act, the closing or settlement may occur without interruption of casino operations. If the commission denies interim authorization, there shall be no closing or settlement until the commission makes a determination on the qualification of the applicant, and if the commission then denies

qualification the contract shall thereby be terminated for all purposes without liability on the part of the transferor.

b. Whenever any person, as a result of a transfer of publicly-traded securities of a casino licensee or holding or intermediary company, is required to qualify under section 84 or 85 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-84 and 5:12-85), the person shall, within 30 days after the commission determines that qualification is required under section 84 or declines to waive qualification under paragraph (1) of subsection d. of section 85, or within such additional time as the commission may for good cause allow, file a completed application for such licensure or qualification, which application shall include a fully executed and approved trust agreement in accordance with section 5 of this 1987 amendatory and supplementary act. No extension of the time for filing a completed application shall be granted unless the person submits a written acknowledgment of the jurisdiction of the commission and the obligations imposed by the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.). If a person required by this section to file an application fails to do so in a timely manner, such failure shall constitute a per se disqualification to continue to act as a security holder, and the commission shall take appropriate action under the "Casino Control Act." If a person required by this section to file an application does so in a timely manner, then, subsequent to the earlier of the report of the division on interim authorization or the 90th day after submission of the completed application, but not later than the 120th day after such submission, the commission shall hold a hearing and render a decision on the interim authorization of such person. The pendency of proceedings under this subsection shall not prevent the renewal of a casino license under section 88 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-88), so long as any person required by this subsection to file an application has complied with this subsection and has otherwise complied with the "Casino Control Act."

C. 5:12-95.13 Commission consideration of request for interim casino authorization.

4. (New section) Commission Consideration of Request for Interim Casino Authorization. a. The commission may grant interim authorization where it finds by clear and convincing evidence (1) that statements of compliance have been issued pursuant to sections 81, 82c., 82d., 82e., 84e., and 134 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-81, 5:12-82, 5:12-84, and 5:12-134); (2) that the casino hotel facility is an approved hotel in accordance with the requirements of section 83 of the "Casino Control Act," P.L. 1977, c. 110

(C. 5:12-83); (3) that the trustee or trustees required by section 5 of this 1987 amendatory and supplementary act have satisfied the qualification criteria applicable to a casino key employee, except for residency and casino experience; and (4) that interim operation will best serve the interests of the public with particular reference to the policies and purposes enumerated in section 1 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1).

b. The commission's consideration of a request for interim authorization shall include, but not be limited to, consideration of such relevant information as may be presented to it by the division. In responding to the request and in determining whether to concur, the division shall not be required to disclose any information the disclosure of which, in its judgment, may prejudice or otherwise compromise any continuing investigation.

C. 5:12-95.14 Provisions and application of trust agreement.

5. (New section) Provisions and Application of Trust Agreement.

a. (1) Where the applicant is not required to obtain a casino license, the trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall transfer and convey all of the applicant's present and future right, title and interest in the property described in section 3, including all voting rights in securities, to the trustee.

(2) Where the applicant is required to obtain a casino license, the trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall transfer and convey to the trustee, if the applicant is a corporation, all outstanding equity securities of the corporation, and, if the applicant is other than a corporation, all outstanding interest in the applicant.

(3) The compensation for the service, costs and expenses of the trustee or trustees shall be stated in the trust agreement and shall be approved by the commission.

(4) The trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall, in all instances, contain such provisions as the commission may deem necessary and desirable.

b. With respect to applicants described in subsection b. of section 3 of this 1987 amendatory and supplementary act, if the commission denies interim authorization, it shall order that the trust agreement become operative, or take such other action as may be appropriate

in accordance with this 1987 amendatory and supplementary act. With respect to all applicants under section 3, if the commission grants interim authorization, it shall thereafter order that the trust agreement become operative at such time as it finds reasonable cause to believe that the applicant or any person required to be qualified in connection with the application may be found unqualified.

c. While the trust agreement remains operative, the trustee shall exercise all rights incident to the ownership of the property subject to the trust, and shall be vested with all powers, authority and duties necessary to the unencumbered exercise of such rights, as provided in sections 31 through 40 of P.L. 1978, c. 7 (C. 5:12-130.1 through 5:12-130.11), except that the applicant shall have no right to participate in the earnings of the casino hotel or receive any return on its investment or debt security holdings during the time the trust is operative.

d. The trust agreement, once operative, shall remain operative until the commission finds the applicant qualified, or the commission finds the applicant unqualified and the property subject to the trust is disposed of in accordance with subsection e. of section 5 of this 1987 amendatory and supplementary act, except that the applicant may request the commission to direct the trustee to dispose of the property subject to the trust, in accordance with that subsection e., prior to a finding with respect to qualification.

e. If the commission denies qualification to a person subject to sections 3 through 7 of this 1987 amendatory and supplementary act, the trustee shall endeavor and be authorized to sell, assign, convey or otherwise dispose of all property subject to the trust to such persons as shall be appropriately licensed or qualified or shall obtain interim authorization in accordance with those sections. The disposition of trust property by the trustee shall be completed within 120 days of the denial of qualification, or within such additional time as the commission may for good cause allow, and shall be conducted in accordance with sections 31 through 40 of P.L. 1978, c. 7 (C. 5:12-130.1 through 5:12-130.11), except that the proceeds of such disposition shall be distributed to the unqualified applicant only in an amount not exceeding the actual cost of the assets to such unqualified applicant, and any excess remaining proceeds shall be paid to the casino revenue fund.

C. 5:12-95.15 Obligations and responsibilities.

6. (New section) Obligations and Responsibilities. During the period of interim authorization, the commission and the division

shall continue such procedures as are provided by the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.) and the regulations promulgated thereunder as may be necessary for a determination of the qualification of the person granted interim authorization. The obligations and responsibilities incumbent upon an applicant, licensee or person required to be qualified are in no way relieved by the granting of interim authorization.

C. 5:12-95.16 Time for determining qualification.

7. (New section) Time for Determining Qualification. Within nine months after a grant or denial of interim authorization, which period may be extended by the commission for one three-month period, the commission shall hold a hearing and render a decision on the qualification of the applicant.

Repealer.

8. Section 137 of P.L. 1977, c. 110 (C. 5:12-137) is repealed.

9. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 410

AN ACT concerning casinos, amending P.L. 1977, c. 110, P.L. 1978, c. 7 and P.L. 1980, c. 69, and repealing section 11 of P.L. 1978, c. 7.

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

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

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

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

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

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

(1) The tourist, resort and convention industry of this State constitutes a critical component of its economic structure and, if properly

developed, controlled and fostered, is capable of providing a substantial contribution to the general welfare, health and prosperity of the State and its inhabitants.

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

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

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

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

(6) An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process

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

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

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license, registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(9) Since casino operations are especially sensitive and in need of public control and supervision, and since it is vital to the interests

of the State to prevent entry, directly or indirectly, into such operations or the ancillary industries regulated by this act of persons who have pursued economic gains in an occupational manner or context which are in violation of the criminal or civil public policies of this State, the regulatory and investigatory powers and duties shall be exercised to the fullest extent consistent with law to avoid entry of such persons into the casino operations or the ancillary industries regulated by this act.

(10) Since the development of casino gaming operations in Atlantic City will substantially alter the environment of New Jersey's coastal areas, and since it is necessary to insure that this substantial alteration be beneficial to the overall ecology of the coastal areas, the regulatory and investigatory powers and duties conferred by this act shall include, in cooperation with other public agencies, the power and the duty to monitor and regulate casinos and the growth of casino operations to respond to the needs of the coastal areas.

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

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

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the provisions of this act, which provisions are designed to engender and maintain public confidence and trust in the regulation of the licensed enterprises, to provide an effective method of rebuilding and redeveloping existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

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

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

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

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

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

C. 5:12-10 Casino license.

10. "Casino License"—Any license issued pursuant to this act which authorizes the holder thereof to own or operate a casino.

3. Section 48 of P.L. 1977, c. 110 (C. 5:12-48) is amended to read as follows:

C. 5:12-48 Work permit.

48. "Work Permit"—An authorization granted to a casino licensee for the employment of a particular casino hotel employee, casino employee or casino key employee in a particular capacity by a casino licensee.

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

C. 5:12-69 Regulations.

69. Regulations. a. The commission shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and

objectives of this act, as it may deem necessary or desirable for the public interest in carrying out the provisions of this act.

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

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

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

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or the use or design of gaming equipment for an experimental period not to exceed 90 days for the purpose of determining whether such rules should be adopted on a permanent basis in accordance with the requirements of this section. Any rules experiment authorized by this subsection shall be conducted under such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L. 1975, c. 231 (C. 10:4-8), at least seven days prior to the initiation of the experimental period and shall be prominently posted in each casino participating in the experiment. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of a rules experiment initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be posted in each casino participating in the experiment and shall be available upon request from the commission. In no case shall any temporary rule authorize the use or operation of any game not authorized by the Legislature.

5. Section 74 of P.L. 1977, c. 110 (C. 5:12-74) is amended to read as follows:

C. 5:12-74 Minutes and records.

74. Minutes and Records. a. The commission shall cause to be made and kept a verbatim record of all proceedings held at public meetings of the commission, which record shall be open to public inspection.

A true copy of the minutes of every meeting of the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the executive secretary, to the Governor, the Secretary of the Senate, and the Clerk of the General Assembly.

b. The commission shall keep and maintain a list of all applicants for licenses and registrations under this act together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after five years from the date of such action.

c. The commission shall maintain such other files and records as may be deemed desirable.

d. Except as provided in subsection h. of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified in section 99a. of this act or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

e. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

f. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection d. or e. of this section, shall be given to any applicant,

registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

g. Files, records, reports and other information in the possession of the New Jersey Division of Taxation pertaining to licensees shall be made available to the commission and the division as may be necessary to the effective administration of this act.

h. The following information to be reported periodically to the commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:

(1) A licensee's gross revenue from all authorized games as herein defined;

(2) (a) The dollar amount of patron checks initially accepted by a licensee, (b) the dollar amount of patron checks deposited to the licensee's bank account, (c) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as "uncollected," and (d) the dollar amount ultimately uncollected after all reasonable efforts;

(3) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to section 144 of P.L. 1977, c. 110 (C. 5:12-144) and section 3 of P.L. 1984, c. 218 (C. 5:12-144.1);

(4) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to section 144 of P.L. 1977, c. 110 (C. 5:12-144) and section 3 of P.L. 1984, c. 218 (C. 5:12-144.1);

(5) The amount, if any, of tax in lieu of full local real property tax paid pursuant to section 146, and the amount of profits, if any, recaptured pursuant to section 147;

(6) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to section 147; and

(7) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the State of New Jersey.

Nothing in this subsection shall be construed to limit access by the public to those forms and documents required to be filed pursuant to Article 11 of this act.

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

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

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

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

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

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

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

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

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

reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

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

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved hotel building or the land thereunder who does not own or lease the entire approved hotel building shall not be eligible to hold or required to hold a casino license;

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

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

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

(6) The commission shall not permit an agreement for the leasing of an approved hotel building or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues

or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved hotel building or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of the casino, provide for the sole and unrestricted power to direct the casino operations of the casino which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino;

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

(9) As to agreements to lease an approved hotel building or the land thereunder, agreements to jointly own an approved hotel building or the land thereunder and agreements for the management of a casino, the commission shall require that each party thereto shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

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

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

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

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

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

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey;

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

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

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

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions

required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any nonpublicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraph (8) for a nonpublicly traded corporation to be eligible to apply for a casino license.

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

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

e. No person shall be issued or be the holder of more than three casino licenses. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

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

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

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

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

records as may be deemed necessary by the commission or the division.

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the applicant or applicants. The integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

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

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

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L. 1977, c. 110 (C. 5:12-83) and its proposed location will not adversely affect casino operations or overall environmental conditions. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act, the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof, and the requirements of the "Coastal Area Facility Review Act," P.L. 1973, c. 185 (C. 13:19-1 et seq.), a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall environment, including, without limitation, economic, social, demographic and competitive conditions as well as the natural resources of Atlantic City and the State of New Jersey.

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

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

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

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

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

stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

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

(3) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and

convincing evidence that the applicant has sufficient business ability and casino experience as to establish the reasonable likelihood of success and efficiency in the particular position involved.

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

The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

c. The commission shall endorse upon any license issued hereunder the particular positions as defined by this act or by regulation which the licensee is qualified to hold.

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

e. Upon petition by the holder of a casino license, the commission may, no earlier than 30 days after the date of the petition, issue a temporary license to an applicant for a casino key employee license, provided that:

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

(2) The division certifies to the commission that the complete casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 30 days;

(3) The information provided by the applicant indicates that the applicant meets the requirements of subsection b. (3) of this section;

(4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key em-

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

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

In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), (3), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operation of the casino.

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

9. Section 106 of P.L. 1977, c. 110 (C. 5:12-106) is amended to read as follows:

C. 5:12-106 Work permits.

106. Work Permits. a. A casino licensee shall not appoint or employ any person not registered or not possessing a current and valid license permitting such appointment or employment. A casino licensee shall, in accordance with the rules of the commission, apply for a work permit for each such employee, which shall be granted if the employee is the holder of a current and valid registration or license which permits employment in the position to be held. Each work permit shall be renewed annually in accordance with rules and regulations promulgated by the commission.

b. A casino licensee shall, within 24 hours of receipt of written notice thereof, terminate the appointment or employment of any person whose license or registration has been revoked or has expired. A casino licensee shall comply in all respects with any order of the commission imposing limitations or restrictions upon the terms of employment or appointment in the course of any investigation or hearing.

10. Section 117 of P.L. 1977, c. 110 (C. 5:12-117) is amended to read as follows:

C. 5:12-117 Employment without license, registration, or work permit; penalty.

117. Employment Without License, Registration, or Work Permit; Penalty.

a. Any person who, without obtaining the requisite license or registration as provided in this act, works or is employed in a position whose duties would require licensing or registration under the provisions of this act is guilty of a misdemeanor and subject to not more than three years' imprisonment or a fine of \$10,000.00 or both, and in the case of a person other than a natural person, to a fine of not more than \$50,000.00.

b. Any person who employs or continues to employ an individual not duly licensed or registered under the provisions of this act in a position whose duties require a license or registration under the provisions of this act is guilty of a misdemeanor and subject to not more than three years' imprisonment or a fine of \$10,000.00 or both, and in the case of a person other than a natural person, to a fine of not more than \$50,000.00.

c. Any person who employs an individual without obtaining a work permit as required by this act, is guilty of a misdemeanor and subject to a fine of not more than \$10,000.00, and in the case of a person other than a natural person, to a fine of not more than \$50,000.00.

d. Any person violating the provisions of subsection 101e. of this act shall be guilty of a misdemeanor, and shall be subject to imprisonment for not more than seven years or a fine of not more than \$25,000.00, or both. Any licensee permitting or allowing such a violation shall also be punishable under this subsection, in addition to any other sanctions the commission may impose.

11. Section 5 of P.L. 1980, c. 69 (C. 5:12-117.1) is amended to read as follows:

C. 5:12-117.1 Prohibited employment.

5. a. No applicant or person or organization licensed by or registered with the commission shall employ or offer to employ any person who is prohibited from accepting employment from a licensee or applicant or any holding or intermediary company under section 4 of P.L. 1981, c. 142 (C. 52:13D-17.2).

b. An applicant or person or organization who violates the provisions of this section is guilty of a crime of the fourth degree.

12. Section 120 of P.L. 1977, c. 110 (C. 5:12-120) is amended to read as follows:

C. 5:12-120 Prohibited political contributions; penalty.

120. Prohibited Political Contributions; Penalty. Any person who makes or causes to be made a political contribution prohibited by the provisions of this act is guilty of a misdemeanor and subject to not more than three years' imprisonment or a fine of \$100,000.00 or both, and in the case of a person other than a natural person, to a fine of not more than \$250,000.00.

13. Section 123 of P.L. 1977, c. 110 (C. 5:12-123) is amended to read as follows:

C. 5:12-123 Continuing offenses.

123. Continuing Offenses. a. A violation of any of the provisions of this act which is an offense of a continuing nature shall be deemed to be a separate offense on each day during which it occurs. Nothing herein shall be deemed to preclude the commission of multiple violations within a day of those provisions of this act which establish offenses consisting of separate and distinct acts.

b. Any person who aids, abets, counsels, commands, induces, procures or causes another to violate a provision of this act is punishable as a principal and subject to all sanctions and penalties, both civil and criminal, provided by this act.

14. Section 124 of P.L. 1977, c. 110 (C. 5:12-124) is amended to read as follows:

C. 5:12-124 Exemption from gambling statutes.

124. Exemption from Gambling Statutes. The provisions of N.J.S. 2A:40-1 shall not apply to any person who, as a licensee operating pursuant to the provisions of this act, or as a player in any game authorized pursuant to the provisions of this act, engages in gaming as authorized herein.

15. Section 31 of P.L. 1978, c. 7 (C. 5:12-130.1) is amended to read as follows:

C. 5:12-130.1 Institution of conservatorship and appointment of conservators.

31. Institution of Conservatorship and Appointment of Conservators.

a. Notwithstanding any other provision of the Casino Control Act, (1) upon the revocation of a casino license, (2) upon, in the discretion of the commission, the suspension of a casino license or operation certificate for a period of in excess of 120 days, or (3) upon the failure or refusal to renew a casino license, and notwithstanding the pendency of any appeal therefrom, the commission shall appoint and constitute a conservator to, among other things, take over and into his possession and control all the property and business of the licensee relating to the casino and the approved hotel; provided, however, that this subsection shall not apply in any instance in which the casino in the casino hotel facility for which the casino license had been issued has not been, in fact, in operation and open to the public, and provided further that no person shall be appointed as conservator unless the commission is satisfied that he is individually qualified according to the standard applicable to casino key employees, except that casino experience shall not be necessary for qualification.

b. (Deleted by amendment, P.L. 1987, c. 410.)

c. The commission may proceed in a conservatorship action in a summary manner or otherwise and shall have the power to appoint and remove one or more conservators and to enjoin the former or suspended licensee from exercising any of its privileges and franchises, from collecting or receiving any debts and from paying out, selling, assigning or transferring any of its property to other than a conservator, except as the commission may otherwise order. The commission shall have such further powers as shall be appropriate for the fulfillment of the purposes of this act.

d. Every conservator shall, before assuming his duties, execute and file a bond for the faithful performance of his duties payable to the commission in the office of the commission with such surety or sureties and in such form as the commission shall approve and in such amount as the commission shall prescribe.

e. When more than one conservator is appointed pursuant to this section, the provisions of this article applicable to one conservator shall be applicable to all; the debts and property of the former or suspended licensee may be collected and received by any of them; and the powers and rights conferred upon them shall be exercised by a majority of them.

16. Section 32 of P.L. 1978, c. 7 (C. 5:12-130.2) is amended to read as follows:

C. 5:12-130.2 Powers, authorities and duties of conservators.**32. Powers, Authorities and Duties of Conservators.**

a. Upon his appointment, the conservator shall become vested with the title of all the property of the former or suspended licensee relating to the casino and the approved hotel, subject to any and all valid liens, claims, and encumbrances. The conservator shall have the duty to conserve and preserve the assets so acquired to the end that such assets shall continue to be operated on a sound and businesslike basis.

b. Subject to the general supervision of the commission and pursuant to any specific order it may deem appropriate, a conservator shall have power to:

(1) Take into his possession all the property of the former or suspended licensee relating to the casino and the approved hotel, including its books, records and papers;

(2) Institute and defend actions by or on behalf of the former or suspended licensee;

(3) Settle or compromise with any debtor or creditor of the former or suspended licensee, including any taxing authority;

(4) Continue the business of the former or suspended licensee and to that end enter into contracts, borrow money and pledge, mortgage or otherwise encumber the property of the former or suspended licensee as security for the repayment of the conservator's loans; provided, however, that such power shall be subject to any provisions and restrictions in any existing credit documents;

(5) Hire, fire and discipline employees;

(6) Review all outstanding agreements to which the former or suspended licensee is a party that fall within the purview of section 104b. of P.L. 1977, c. 110 (C. 5:12-104b.) and advise the commission as to which, if any, of such agreements should be the subject of scrutiny, examination or investigation by the commission; and

(7) Do all further acts as shall best fulfill the purposes of the Casino Control Act.

c. Except during the pendency of a suspension or during the pendency of any appeal from any action or event set forth in section 31a. of this amendatory and supplementary act which precipitated the conservatorship or in instances in which the commission finds

that the interests of justice so require, the conservator, subject to the prior approval of and in accordance with such terms and conditions as may be prescribed by the commission, and after appropriate prior consultation with the former licensee as to the reasonableness of such terms and conditions, shall endeavor to and be authorized to sell, assign, convey or otherwise dispose of in bulk, subject to any and all valid liens, claims, and encumbrances, all the property of a former licensee relating to the casino and the approved hotel only upon prior written notice to all creditors and other parties in interest and only to such persons who shall be eligible to apply for and shall qualify as a casino licensee in accordance with the provisions of the Casino Control Act. Prior to any such sale, the former licensee shall be granted, upon request, a summary review by the commission of such proposed sale.

d. The commission may direct that the conservator, for an indefinite period of time, retain the property and continue the business of the former or suspended licensee relating to the casino and the approved hotel. During such period of time or any period of operation by the conservator, he shall pay when due, without in any way being personally liable, all secured obligations and shall not be immune from foreclosure or other legal proceedings to collect the secured debt, nor with respect thereto shall such conservator have any legal rights, claims, or defenses other than those which would have been available to the former or suspended licensee.

17. Section 34 of P.L. 1978, c. 7 (C. 5:12-130.4) is amended to read as follows:

C. 5:12-130.4 Assumption of outstanding debts.

34. Assumption of Outstanding Debts. As an incident of its prior approval pursuant to section 32c. of this amendatory and supplementary act of the sale, assignment, conveyance or other disposition in bulk of all property of the former licensee relating to the casino and the approved hotel, the commission may, in its discretion, require that the purchaser thereof assume in a form and substance acceptable to the commission all of the outstanding debts of the former licensee that arose from or were based upon the operation of either or both the casino or the approved hotel.

18. Section 35 of P.L. 1978, c. 7 (C. 5:12-130.5) is amended to read as follows:

C. 5:12-130.5 Payment of net earnings during the period of the conservatorship.

35. Payment of Net Earnings During the Period of the Conservatorship. No payment of net earnings during the period of the

conservatorship may be made by the conservator without the prior approval of the commission, which may, in its discretion, direct that all or any part of same be paid either to the suspended or former licensee or to the Casino Revenue Fund in accordance with regulations of the commission; provided, however, that the former or suspended licensee shall be entitled to a fair rate of return out of net earnings, if any, during the period of the conservatorship on the property retained by the conservator, taking into consideration that which amounts to a fair rate of return in the casino industry or the hotel industry, as the case may be.

19. Section 35A of P.L. 1978, c. 7 (C. 5:12-130.6) is amended to read as follows:

C. 5:12-130.6 Payments following a bulk sale.

35A. Payments Following a Bulk Sale. Following any sale, assignment, conveyance or other disposition in bulk of all the property subject to the conservatorship, the net proceeds therefrom, if any, after payment of all obligations owing to the State of New Jersey and any political subdivision thereof and of those allowances set forth in section 33 of this amendatory and supplementary act, shall be paid by the conservator to the former or suspended licensee.

20. Section 37 of P.L. 1978, c. 7 (C. 5:12-130.8) is amended to read as follows:

C. 5:12-130.8 Discontinuation of a conservatorship.

37. Discontinuation of a Conservatorship.

a. The commission shall direct the discontinuation of any conservatorship action instituted pursuant to section 31 of this amendatory and supplementary act when the conservator has, pursuant to section 32 of this amendatory and supplementary act and with the prior approval of the commission, consummated the sale, assignment, conveyance or other disposition in bulk of all the property of the former licensee relating to the casino and the approved hotel.

b. The commission may direct the discontinuation of any such conservatorship action when it determines that for any reason the cause for which the action was instituted no longer exists.

c. Upon the discontinuation of the conservatorship action and with the approval of the commission, the conservator shall take such steps as may be necessary in order to effect an orderly transfer of the property of the former or suspended licensee.

d. The sale, assignment, transfer, pledge or other disposition of the securities issued by a former or suspended licensee during the pendency of a conservatorship action instituted pursuant to this article shall neither divest, have the effect of divesting, nor otherwise affect the powers conferred upon a conservator by this amendatory and supplementary act.

21. Section 134 of P.L. 1977, c. 110 (C. 5:12-134) is amended to read as follows:

C. 5:12-134 Equal employment opportunity; requirements of license.

134. Equal Employment Opportunity; Requirements of License.

a. Each applicant at the time of submitting architectural plans or site plans to the commission for approval of proposed construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino shall accompany same with a written guaranty that all contracts and subcontracts to be awarded in connection therewith shall contain appropriate provisions by which contractors and subcontractors or their assignees agree to afford an equal employment opportunity to all prospective employees and to all actual employees to be employed by the contractor or subcontractor in accordance with an affirmative action program approved by the commission and consonant with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.). On and after the effective date of this amendatory act an applicant shall also be required to demonstrate that equal employment opportunities in accordance with the aforesaid affirmative-action program in compliance with P.L. 1945, c. 169 have been afforded to all prospective employees and to all actual employees employed by a contractor or subcontractor in connection with the actual construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino prior to submission of architectural plans or site plans to the commission.

b. No license shall be issued by the commission to any applicant, including a casino service industry as defined in section 12 of this act, who has not agreed to afford an equal employment opportunity to all prospective employees in accordance with an affirmative-action program approved by the commission and consonant with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.).

c. Each applicant shall formulate for commission approval and abide by an affirmative-action program of equal opportunity whereby

the applicant guarantees to provide equal employment opportunity to rehabilitated offenders eligible under sections 90 and 91 of this act and members of minority groups qualified for licensure in all employment categories, including the handicapped, in accordance with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.), except in the case of the mentally handicapped, if it can be clearly shown that such handicap would prevent such person from performing a particular job.

d. Any license issued by the commission in violation of this section shall be null and void.

22. Section 142 of P.L. 1977, c. 110 (C. 5:12-142) is amended to read as follows:

C. 5:12-142 Work permit fee.

142. Work Permit Fee. The commission shall, by regulation, establish annual fees for the issuance and renewal of work permits, which fees shall be payable by the employer licensee.

Repealer.

23. Section 11 of P.L. 1978, c. 7 (C. 5:12-47.1) is repealed.

24. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 411

AN ACT concerning penalties for the violation of municipal ordinances and amending R.S. 40:49-5 and P.L. 1950, c. 210.

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

1. R.S. 40:49-5 is amended to read as follows:

Penalties for violation of municipal ordinances.

40:49-5. The governing body may prescribe penalties for the violation of ordinances it may have authority to pass, by one or more of the following: imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$1,000.00; or by a period of community service not exceeding 90 days.

The governing body may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.00. The court before which any person is convicted of violating any ordinance of a municipality shall have power to impose any fine, term of imprisonment, or period of community service not less than the minimum and not exceeding the maximum fixed in such ordinance. Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the county jail or place of detention provided by the municipality, for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days.

2. Section 2-4 of P.L. 1950, c. 210 (C. 40:69A-29) is amended to read as follows:

C. 40:69A-29 Powers.

2-4. Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

(a) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their terms, tenure and compensation;

(b) Adopt and enforce local police ordinances of all kinds and impose one or more of the following penalties: fines not exceeding \$1,000.00, or imprisonment for any term not exceeding 90 days, or a period of community service not exceeding 90 days for the violation thereof; prescribe that for the violation of particular ordinances at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.00; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(c) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(d) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

3. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 412

AN ACT concerning municipal licensing fees and amending P.L. 1982, c. 68.

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

1. Section 1 of P.L. 1982, c. 68 (C. 40:52-7) is amended to read as follows:

C. 40:52-7 Additional assessments.

1. The governing body of any municipality is authorized to enact an ordinance or ordinances imposing an additional assessment to any fee imposed upon a license issued by the municipality pursuant to P.L. 1959, c. 109 (C. 5:8-100 et seq.), R.S. 40:52-1 or R.S. 33:1-19. The additional assessment shall be imposed at the rate as shall be determined by the governing body and set forth in the ordinance. In no event shall the total amount of the additional assessment imposed on any one license exceed \$50.00.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 413

AN ACT concerning the membership of the New Jersey Racing Commission and amending P.L. 1940, c. 17.

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

1. Section 2 of P.L. 1940, c. 17 (C. 5:5-23) is amended to read as follows:

C. 5:5-23 Racing Commission membership.

2. The commission shall consist of nine members, all of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and not more than five of whom shall be of the same political party, and one of whom of the first to be appointed hereunder shall be designated by the Governor to be the chairman of the commission; said chairman thereafter shall be annually elected by the members of said commission. Each commissioner, at the time of his appointment and qualification, shall be a resident of the State of New Jersey, and shall have resided in said State for a period of at least seven years next preceding his appointment and qualification and he shall also be a qualified voter therein and not less than 30 years of age. At least three of the members shall be residents of South Jersey, which, for the purposes of this section, shall consist of the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem. The term of office of each member of the first commission shall commence on confirmation after appointment. One of said commissioners shall hold office for two years from the beginning of his term of office and until his successor shall qualify; one of said commissioners shall hold office for four years from the beginning of his term of office and until his successor shall qualify; and two of said commissioners shall hold office for six years from the beginning of their terms of office and until their successors shall qualify; provided, however, that the two members whose terms shall expire in six years shall not be of the same political party. The Governor, at the time of making and announcing the appointment of said four commissioners, shall designate which of said commissioners shall serve for the term of two years, which of said commissioners shall serve for the term of four years, and which of said commissioners shall serve for the term of six years, as aforesaid, and also who shall be the chairman of said commission. Upon the expiration of the terms of such respective commissioners, the Governor, by and with the advice and consent of the Senate, shall appoint their successors, each to hold office for a term of six years and until his successor has been appointed and qualified. Any vacancy in the commission shall be filled for the unexpired term. Each commissioner shall be eligible for reappointment in the discretion of the Governor.

Of the three additional members appointed pursuant to this 1984 amendatory and supplementary act, one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, and all shall serve until their successors have been

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appointed and qualified. Each of the successors of these additional members shall be appointed for a term of six years, and shall serve until his successor is appointed and qualified.

Of the two additional members appointed pursuant to this 1987 amendatory act, one shall be appointed for a term of four years and one for a term of six years, and both shall serve until their successors have been appointed and qualified. Each of the successors of these additional members shall be appointed for a term of six years and shall serve until his successor is appointed and qualified.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 414

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
78 DEPARTMENT OF TRANSPORTATION	
60 Transportation Programs	
64 Planning and General Management Support	
99-6000 Management and Regulatory	
Services	\$250,000
Grant:	
PENJERDEL Regional Foundation,	
lighting on Benjamin	
Franklin Bridge	(\$250,000)

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 415

AN ACT concerning the defense and indemnification of hazardous substance discharge cleanup contractors, and amending P.L. 1976, c. 141.

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

1. Section 7 of P.L. 1976, c. 141 (C. 58:10-23.11f) is amended to read as follows:

C. 58:10-23.11f Hazardous substance cleanup.

7. a. Whenever any hazardous substance is discharged, the department may, in its discretion, act to remove or arrange for the removal of such discharge or may direct the discharger to remove, or arrange for the removal of, such discharge. If the discharge occurs at any hazardous or solid waste disposal facility, the department may order the facility closed for the duration of the removal operations. The department may monitor the discharger's compliance with any such directive. Any discharger who fails to comply with such a directive shall be liable to the department in an amount equal to three times the cost of such removal, and shall be subject to the revocation or suspension of any license or permit he holds authorizing him to operate a hazardous or solid waste disposal facility.

Removal of hazardous substances and actions to minimize damage from discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the federal Water Pollution Control Act Amendments of 1972 (Pub.L. 92-500, 33 U.S.C. §1251 et seq.).

Whenever the department acts to remove a discharge or contracts to secure prospective removal services, it is authorized to draw upon the money available in the fund. Such moneys shall be used to pay promptly for all cleanup costs incurred by the department in removing or in minimizing damage caused by such discharge.

The department may agree to defend and indemnify a contractor against claims, causes of action, demands, costs, or judgments made against a contractor arising as a direct result of the contractor's provision of hazardous substance cleanup or mitigation services pursuant to a contract with the department. This legal defense and indemnification shall not apply to claims, causes of action, demands, costs, or judgments which are proven to have arisen from gross negli-

gence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct, or to claims for punitive or exemplary damage. The department shall agree to provide legal defense and indemnification to a contractor only if it determines that adequate environmental liability insurance is not available or not available at a reasonable cost to the contractor. The department shall agree to provide legal defense and indemnification to a contractor pursuant to terms and limitations which it deems appropriate. Any agreement by the department to defend or indemnify a contractor shall not bar the department from the exercise of any available legal remedies for the enforcement of the contract between the department and the contractor, the recovery of damages to which the department may be entitled resulting from a contractor's failure to perform the contract, or for the recovery of funds expended for the defense of a contractor if the defense was undertaken in response to a claim or cause of action brought against the contractor which is proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct. No person other than a contractor shall have the right to enforce any agreement for defense and indemnification between a contractor and the department. The department shall not enter into an agreement to provide legal defense and indemnification to a contractor after January 1, 1990. For the purposes of this subsection, "contractor" means a person providing services to mitigate or cleanup a discharge or release or threatened discharge or release of a hazardous substance in this State pursuant to P.L. 1976, c. 141 (C. 58:10-23.11 et seq.) or the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub. L. 96-510 (42 U.S.C. §9601 et seq.).

Nothing in this section is intended to preclude removal and cleanup operations by any person threatened by such discharges, provided such persons coordinate and obtain approval for such actions with ongoing State or federal operations. No action taken by any person to contain or remove a discharge shall be construed as an admission of liability for said discharge. No person who renders assistance in containing or removing a discharge shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance, except for acts or omissions of gross negligence or willful misconduct. In the course of cleanup operations, no person shall discharge any detergent into the waters of this State without prior authorization of the commissioner.

b. Notwithstanding any other provisions of P.L. 1976, c. 141 (C. 58:10-23.11 et seq.), the department, subject to the approval of the

administrator with regard to the availability of funds therefor, may remove or arrange for the removal of any hazardous substance which:

(1) Has not been discharged from a grounded or disabled vessel, if the department determines that such removal is necessary to prevent an imminent discharge of such hazardous substance; or

(2) Has not been discharged, if the department determines that such substance is not satisfactorily stored or contained and said substance possesses any one or more of the following characteristics:

(a) Explosiveness;

(b) High flammability;

(c) Radioactivity;

(d) Chemical properties which in combination with any discharged hazardous substance at the same storage facility would create a substantial risk of imminent damage to public health or safety or an imminent and severe damage to the environment;

(e) Is stored in a container from which its discharge is imminent as a result of contact with a hazardous substance which has already been discharged and such additional discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(f) High toxicity and is stored or being transported in a container or motor vehicle, truck, railcar or other mechanized conveyance from which its discharge is imminent as a result of the significant deterioration or the precarious location of the container, motor vehicle, truck, railcar or other mechanized conveyance, and such discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(3) Has been discharged prior to the effective date of P.L. 1976, c. 141.

c. If and to the extent that he determines that funds are available, the administrator shall approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance other than petroleum as authorized by subsection b. of this section; provided that in determining the availability of funds, the administrator shall not include as available funds revenues realized or to be realized from the tax on the transfer of petroleum, to the extent that such revenues result from a tax levied at a rate in excess of \$0.01 per barrel, pursuant to subsection 9b. of

P.L. 1976, c. 141 (C. 58:10-23.11h), unless the administrator determines that the sum of claims paid by the fund on behalf of petroleum discharges or removals plus pending reasonable claims against the fund on behalf of petroleum discharges or removals is greater than 30% of the sum of all claims paid by the fund plus all pending reasonable claims against the fund.

d. The administrator may only approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance discharged prior to the effective date of P.L. 1976, c. 141, pursuant to subsection b. of this section, if, and to the extent that, he determines that adequate funds from another source are not or will not be available; and further provided, with regard to the cleanup and removal costs incurred for discharges which occurred prior to the effective date of P.L. 1976, c. 141, the administrator may not during any year period pay more than \$18,000,000.00 in total or more than \$3,000,000.00 for any discharge or related set or series of discharges.

e. Notwithstanding any other provisions of P.L. 1976, c. 141, the administrator, after considering, among any other relevant factors, the department's priorities for spending funds pursuant to P.L. 1976, c. 141, and within the limits of available funds, shall make payments for the restoration or replacement of, or connection to an alternative water supply for, any private residential well destroyed, contaminated, or impaired as a result of a discharge prior to the effective date of P.L. 1976, c. 141, provided however total payments for said purpose shall not exceed \$500,000.00 for the period between the effective date of this subsection e. and January 1, 1983, and in any calendar year thereafter.

f. Any expenditures made by the administrator pursuant to this act shall constitute in each instance, a debt of the discharger to the fund. The debt shall constitute a lien on all property owned by the discharger when a notice of lien, incorporating a description of the property of the discharger subject to the cleanup and removal and an identification of the amount of cleanup, removal and related costs expended from the fund is duly filed with the clerk of the Superior Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the discharger and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the revenues and all real and personal property of the discharger, whether or not the discharger is insolvent.

The notice of lien filed pursuant to this subsection which affects the property of a discharger subject to the cleanup and removal of a discharge shall create a lien with priority over all other claims or liens which are or have been filed against the property, except if the property comprises six dwelling units or less and is used exclusively for residential purposes, this notice of lien shall not affect any valid lien, right or interest in the property filed in accordance with established procedure prior to the filing of this notice of lien. The notice of lien filed pursuant to this subsection which affects any property of a discharger other than the property subject to the cleanup and removal, shall have priority from the day of the filing of the notice of the lien over all other claims and liens filed against the property, but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this subsection.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 416

AN ACT concerning the taking of striped bass and amending P.L. 1987, c. 83.

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

1. Section 1 of P.L. 1987, c. 83 (C. 23:5-45.1) is amended to read as follows:

C. 23:5-45.1 Striped bass limitations.

1. a. No person shall take from the marine waters of the State in any one day, or sell, barter, offer for sale or barter or have in his possession at any time, more than five striped bass measuring not less than 31 inches in length, from the effective date of this amendatory and supplementary act through July 31, 1987 and not less than 33 inches in length from August 1, 1987 through September 30, 1988.

b. The possession of any striped bass or parts of a striped bass from which the head or tail has been removed other than immediately prior to preparation or being served as food, which is less than 31 inches in length from the effective date of this amendatory and

supplementary act through July 31, 1987 or less than 33 inches in length from August 1, 1987 through September 30, 1988 shall be presumed to be possessed in violation of this section.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 417

AN ACT extending the time period during which the Commissioner of Transportation may enter certain agreements to defend and indemnify contractors, and amending P.L. 1986, c. 81.

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

1. Section 1 of P.L. 1986, c. 81 (C. 27:1A-5.2) is amended to read as follows:

C. 27:1A-5.2 Indemnification of public contractors.

1. The Commissioner of Transportation, in consultation with the Attorney General, may agree to defend and indemnify any person who, pursuant to a written contract with the Department of Transportation, constructs public works or improvements or provides services to the department for claims, causes of action, demands, costs or judgments against that person arising as a direct result of the contamination of the environment by hazardous substances if the contamination is a direct result of the construction or services. The commissioner shall not agree to indemnify a person unless the commissioner determines that adequate environmental liability insurance is either unavailable to that person in connection with a particular contract or that the cost therefor is prohibitive.

The commissioner is authorized to enter into an agreement to defend and indemnify a person upon the terms and limitations the commissioner deems reasonable and appropriate. The commissioner shall not enter into an agreement after January 1, 1990 to provide legal defense and indemnification to any person pursuant to this section. The commissioner shall not agree to defend or indemnify any person for acts which arise from gross negligence, willful misconduct, fraud, intentional tort, bad faith or criminal wrongdoing or for claims for punitive or exemplary damages.

An agreement to defend and indemnify pursuant to this section does not bar, reduce, limit or affect any remedies which the department may have to enforce its contract or to assert a claim for damages to which the department may be entitled arising out of the person's failure to perform the contract, or for the recovery of funds expended for the defense of a person if the defense was undertaken in response to a claim or cause of action brought against the person which is proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct.

No one other than the person performing construction or services pursuant to a written contract with the department has the right to enforce any agreement for defense or indemnification between that person and the commissioner. For purposes of this section, the term "person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, public authorities, the United States, the State of New Jersey and any of its political subdivisions or agents. The term "services" means work performed by design or other expert consultants and work or technical functions performed by nonexperts on projects for public works, building or improvements, including work preliminary to construction under a contract and work which results in or from a contract modification. The term "hazardous substances" shall have the same meaning as provided in section 3 of P.L. 1976, c. 141 (C. 58:10-23.11b).

2. Section 2 of P.L. 1986, c. 81 (C. 27:1A-5.3) is amended to read as follows:

C. 27:1A-5.3 Time limitation.

2. Notwithstanding the time limitation established by section 1 of this act, the commissioner may defend and indemnify any person covered by an agreement which was made by him on or before January 1, 1990.

3. Section 4 of P.L. 1986, c. 81 is amended to read as follows:

4. This act shall take effect immediately, and shall apply to contracts entered into prior to the effective date of this act on which work is still in progress on the effective date of this act and to contracts entered into on or after the effective date of this act through January 1, 1990.

4. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 418

AN ACT concerning filing extensions for applications for valuation under the "Farmland Assessment Act of 1964," and amending P.L. 1964, c. 48 and P.L. 1968, c. 455.

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

1. Section 6 of P.L. 1964, c. 48 (C. 54:4-23.6) is amended to read as follows:

C. 54:4-23.6 Qualifications for valuation, assessment, taxation.

6. Land which is actively devoted to agricultural or horticultural use shall be eligible for valuation, assessment and taxation as herein provided when it meets the following qualifications:

(a) It has been so devoted for at least the two successive years immediately preceding the tax year for which valuation under this act is requested;

(b) The area of such land is not less than five acres when measured in accordance with the provisions of section 11 hereof; and

(c) Application by the owner of such land for valuation hereunder is submitted on or before August 1 of the year immediately preceding the tax year to the assessor of the taxing district in which such land is situated on the form prescribed by the Director of the Division of Taxation in the Department of the Treasury;

(d) The assessor may grant an extension of time for filing an application required by this section, which extension shall terminate no later than September 1 of the year immediately preceding the tax year, in any event where it shall appear to the satisfaction of the assessor that failure to file by August 1 was due to (1) the illness of the owner and a certificate of a physician stating that the owner was physically incapacitated and unable to file on or before August 1 and the application is filed with the assessor; or (2) the death of the owner or an immediate member of the owner's family and a certified copy of the death certificate and the application is filed with the assessor by the individual legally responsible for the estate of the owner, or the owner, as the case may be.

As used in this act, "immediate family member" means a person's spouse, child, parent or sibling residing in the same household.

2. Section 13 of P.L. 1964, c. 48 (C. 54:4-23.13) is amended to read as follows:

C. 54:4-23.13 Application; change in land usage.

13. Eligibility of land for valuation, assessment and taxation under this act shall be determined for each tax year separately. Application shall be submitted by the owner to the assessor of the taxing district in which such land is situated on or before August 1 or September 1, if an extension of time has been granted by the assessor under section 6 of P.L. 1964, c. 48 (C. 54:4-23.6), of the year immediately preceding the tax year for which such valuation, assessment and taxation are sought. If the application is filed by delivery through the mails or a commercial courier or messenger service, compliance with the time limit for filing shall be established if there is satisfactory evidence that it was committed for delivery to the United States Postal Service or the courier or messenger service within the time allowed for filing. In the case of a courier or messenger service, the application shall be received by the tax assessor of the taxing district within three days after the statutory filing date. An application once filed with the assessor for the ensuing tax year may not be withdrawn by the applicant after August 1 or after September 1, in cases where an extension of time for filing the application has been granted by the assessor, of the pretax year.

If a change in use of the land occurs between August 1 and December 31 of the pretax year, either the assessor or the county board of taxation shall deny or nullify such application and, after examination and inquiry, shall determine the full and fair value of said land under the valuation standard applicable to other land in the taxing district and shall assess the same, according to such value. If, notwithstanding such change of use, the land is valued, assessed and taxed under the provisions of this act in the ensuing year, the assessor shall enter an assessment, as an added assessment against such land, in the "Added Assessment List" for the particular year involved in the manner prescribed in P.L. 1941, c. 397 (C. 54:4-63.1 et seq.). The amount of the added assessment shall be in an amount equal to the difference, if any, between the assessment imposed under this act and the assessment which would have been imposed had the land been valued and assessed as other land in the taxing district. The enforcement and collection of additional taxes resulting from any additional assessments so imposed shall be as provided by said chapter. The additional assessment imposed under this section shall not affect the roll-back taxes, if any, under section 8 of this act.

3. Section 1 of P.L. 1968, c. 455 (C. 54:4-23.13a) is amended to read as follows:

C. 54:4-23.13a Application deemed timely made.

1. In any municipality in which a program of revaluation of all property in the municipality has been or shall be undertaken and completed in time to be reflected in the assessments for the next succeeding tax year but not in sufficient time to permit taxpayers to make application prior to August 1 of the pretax year, or September 1 of the pretax year if an extension of filing time has been granted by the assessor under section 6 of P.L. 1964, c. 48 (C. 54:4-23.6), for the valuation, assessment and taxation of their lands for the ensuing tax year on the basis of being actively devoted to agricultural or horticultural use, any such application which has been or shall be filed with the assessor after August 1, and prior to December 1 of the pretax year, shall be deemed to have been timely made for the tax year next succeeding completion of the revaluation program, notwithstanding any provision to the contrary of P.L. 1964, c. 48 (C. 54:4-23.1 et seq.) or of any other law, and the taxes of any applicant whose lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural or horticultural use shall be adjusted accordingly for the tax year commencing January 1 next succeeding completion of the revaluation program and credited or debited, as the case may be, against any taxes due or to become due on such lands.

4. Section 14 of P.L. 1964, c. 48 (C. 54:4-23.14) is amended to read as follows:

C. 54:4-23.14 Application form; contents.

14. Application for valuation, assessment and taxation of land in agricultural or horticultural use under this act shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, and provided for the use of claimants by the governing bodies of the respective taxing districts. The form of application shall provide for the reporting of information pertinent to the provisions of Article VIII, Section 1, paragraph 1(b) of the Constitution, as amended, and this act. A certification by the landowner that the facts set forth in the application are true may be prescribed by the director to be in lieu of a sworn statement to that effect. Statements so certified shall be considered as if made under oath and subject to the same penalties as provided by law for perjury. The director shall devise a form for the extension of filing time for the valuation application, which form shall include the name and address of the applicant, the reason for the extension, and a space for the approval or rejection of the assessor.

5. This act shall take effect one year following enactment.

Approved January 14, 1988.

CHAPTER 419

A SUPPLEMENT to the "Casino Control Act," approved June 2, 1977
(P.L. 1977, c. 110; C. 5:12-1 et seq.).

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

C. 5:12-101.1 Casino cash limit.

1. No casino licensee or any person licensed under P.L. 1977, c. 110 (C. 5:12-1 et seq.), and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110, shall, in a single transaction during a gaming day, accept cash from a person offered for the purposes of establishing an account, when the amount offered totals \$10,000.00 or more, unless the person presents proof of his identity and passport identification number if he is not a United States citizen.

Multiple currency transactions shall be treated as a single transaction if the casino licensee, person licensed under P.L. 1977, c. 110 or person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110 has knowledge that the transactions are by or on behalf of one person and result in either cash in or cash out totaling more than \$10,000.00 during a gaming day.

C. 5:12-101.2 Redemption limit.

2. No casino licensee or any person licensed under P.L. 1977, c. 110 (C. 5:12-1 et seq.), and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110, shall, in a single transaction during a gaming day, redeem for cash or credit any chips or markers in an amount of \$10,000.00 or more or exchange chips for cash in an amount of \$10,000.00 or more, from any one person, unless the person seeking to redeem the chips or markers presents proof of his identity and passport identification number if he is not a United States citizen.

Multiple currency transactions shall be treated as a single transaction if the casino licensee, person licensed under P.L. 1977, c. 110

or person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110 has knowledge that the transactions are by or on behalf of one person and result in either cash in or cash out totaling more than \$10,000.00 during a gaming day.

C. 5:12-101.3 Report of identities, passport numbers.

3. Casino licensees, persons licensed under P.L. 1977, c. 110 (C. 5:12-1 et seq.) and persons acting on behalf of or under any arrangement with casino licensees or other persons licensed under P.L. 1977, c. 110, who accept cash or redeem chips or markers totaling \$10,000.00 or more in a gaming day for which identification is required pursuant to sections 1 and 2 of this 1987 supplementary act, shall at least once every 30 days report the identities and passport numbers of the persons offering the cash, chips or markers, to the Division of Gaming Enforcement.

4. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 420

AN ACT to amend the "Criminal Injuries Compensation Act of 1971," approved October 4, 1971 (P.L. 1971, c. 317).

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

1. Section 11 of P.L. 1971, c. 317 (C. 52:4B-11) is amended to read as follows:

C. 52:4B-11 Victim compensation.

11. The board may order the payment of compensation in accordance with the provisions of this act for personal injury or death which resulted from:

(a) an attempt to prevent the commission of crime or to arrest a suspected criminal or in aiding or attempting to aid a police officer so to do, or

(b) the commission or attempt to commit any of the following offenses:

1. aggravated assault;

2. mayhem;
 3. threats to do bodily harm;
 4. lewd, indecent, or obscene acts;
 5. indecent acts with children;
 6. kidnapping;
 7. murder;
 8. manslaughter;
 9. rape;
 10. any other crime involving violence including domestic violence as defined by section 3 of P.L. 1981, c. 426 (C. 2C:25-3);
 11. burglary;
 12. tampering with a cosmetic, drug or food product.
2. There is appropriated from the General Fund the sum of \$66,000.00 to effectuate the purposes of this act.
3. This act shall take effect immediately but shall remain inoperative until enactment into law of Assembly Bill No. 1156 of 1986.
- Approved January 14, 1988.

CHAPTER 421

AN ACT concerning cosmetic, drug or food product tampering 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:40-16 Definitions.

1. As used in this act:
 - a. "Cosmetic" means any substance or other device which is used for the treatment of the skin, hair or nails.
 - b. "Drug" means any over-the-counter or prescribed medicine.
 - c. "Food product" means anything sold for human consumption, and includes tobacco products.

d. "Tamper" means to adulterate a cosmetic, drug or food product by adding any poisonous, deleterious or noxious substance which may be injurious or detrimental to a person's health.

C. 2C:40-17 4th degree crime.

2. A person who tampers with a cosmetic, drug or food product is guilty of a crime of the fourth degree, except that nothing herein shall be deemed to preclude a charge for a greater crime under any other provision of Title 2C of the New Jersey Statutes.

3. This act shall take effect immediately but shall remain inoperative until enactment into law of Assembly Bill No. 1155 of 1986.

Approved January 14, 1988.

CHAPTER 422

AN ACT providing for credits or rebates to subscribers for certain disruptions in cable television service 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-11a Cable TV outages.

1. The director with the approval of the board shall adopt rules and regulations providing for a credit or rebate for outages of cable television service which are six or more hours in duration. The amount of the credit or rebate shall be in one day units, prorated on the basis of the subscriber's monthly rate for each service so interrupted. In order to obtain a credit or rebate, a subscriber shall notify by telephone or in writing the cable television company, the Office of Cable Television or other designated complaint officer within 30 days after any such outage. The regulations may provide for appropriate exceptions and limitations.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 423

AN ACT concerning the sale of tobacco to persons under the age of 18 and amending N.J.S. 2A:170-51 and supplementing P.L. 1948, c. 65.

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

1. N.J.S. 2A:170-51 is amended to read as follows:

Ban on tobacco sales to minors.

2A:170-51. Any person who directly or indirectly, acting as agent or otherwise, sells, gives or furnishes to a minor under the age of 18 years, any cigarettes made of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco, shall be punished by a fine of \$250.00.

C. 54:40A-4.1 Sign required.

2. (New section) Notwithstanding any other provision of law to the contrary, a person to whom a license is issued pursuant to P.L. 1948, c. 65 (C. 54:40A-1) shall as a condition of the license post a sign at the point of display of the tobacco products and at the point of sale. The sign shall be at least two inches by two inches square and shall read as follows:

A person who sells or offers to sell a tobacco product to a person under 18 years of age shall be fined \$250.00.

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

Approved January 14, 1988.

CHAPTER 424

AN ACT allowing certain performance investing fees for investment advisors and amending P.L. 1967, c. 93.

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

1. Section 6 of P.L. 1967, c. 93 (C. 49:3-53) is amended to read as follows:

C. 49:3-53 Investment advisory contracts.

6. (a) It shall be unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise,

(1) to employ any device, scheme or artifice to defraud the other person; or

(2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person;

(b) It shall be unlawful for any investment advisor or registered broker-dealer acting as an investment advisor to enter into, extend, or renew any investment advisory contract unless it provides in writing

(1) that the investment advisor shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client, except as may be authorized by regulations issued by the bureau chief;

(2) that no assignment of the contract may be made by the investment advisor without the consent of the other party to the contract; and

(3) that the investment advisor, if a partnership shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change;

(c) Paragraph (b)(1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment," as used in paragraph (b)(2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment advisor is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment advisor having only a minority interest in the business of the investment advisor, or from the admission to the investment advisor of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 425

AN ACT concerning the study of civics and supplementing chapter 35 of Title 18A of the New Jersey Statutes.

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

C. 18A:35-2.1 Civics curriculum guidelines.

1. The State Department of Education shall prepare curriculum guidelines for the teaching of civics which may be used by local school boards in fulfilling the requirements established pursuant to N.J.S. 18A:35-1 and N.J.S. 18A:35-2.

2. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 426

AN ACT concerning casino junkets, complimentary services, and credit, and amending P.L. 1977, c. 110.

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

1. Section 29 of P.L. 1977, c. 110 (C. 5:12-29) is amended to read as follows:

C. 5:12-29 Junket.

29. "Junket"—An arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble or on any other basis related to his propensity to gamble, to come to a licensed casino hotel for the purpose of gambling and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a casino licensee or employee or agent thereof.

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

C. 5:12-24 Gross revenue.

24. "Gross Revenue"—The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or 4% of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons.

For the purposes of this section, any check which is invalid and unenforceable pursuant to subsection f. of section 101 of P.L. 1977, c. 110 (C. 5:12-101) shall be treated as cash received by the casino licensee from gaming operations.

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

C. 5:12-29.2 Junket representative.

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

4. 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 calendar days of the date of the transaction for a check in an amount of \$1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than \$1,000.00 but less than or equal to \$5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than \$5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash 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.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

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

- (1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;
- (2) A bank for collection or payment of the check; 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 for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L. 1977, c. 110 (C. 5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming 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 or is drawn by a casino licensee for winnings from slot machine payoffs;

(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.

5. Section 102 of P.L. 1977, c. 110 (C. 5:12-102) is amended to read as follows:

C. 5:12-102 Junkets and complimentary services.

102. Junkets and Complimentary Services. a. No junkets may be organized or permitted except in accordance with the provisions of this act. No person may act as a junket representative or junket enterprise except in accordance with this section. Notwithstanding any other provisions of P.L. 1977, c. 110 (C. 5:12-1 et seq.), junket enterprises engaged in activities governed by this section shall not be subject to the provisions of section 92 and subsection b. of section

104 of P.L. 1977, c. 110 (C. 5:12-92 and C. 5:12-104) with regard to those activities, unless otherwise directed by the commission pursuant to subsection k. of this section.

b. A junket representative shall be licensed as a casino key employee in accordance with the provisions of P.L. 1977, c. 110 (C. 5:12-1 et seq.); provided, however, that said licensee need not be a resident of this State. Any person who holds a current and valid casino key employee license may act as a junket representative while employed by a casino licensee without further endorsement of his license. No casino licensee or junket enterprise may employ or otherwise engage a junket representative who is not so licensed.

c. A junket enterprise shall be licensed in accordance with the provisions of this section prior to conducting any business whatsoever with a casino licensee, its employees or agents. A junket enterprise, as well as such of its owners, management and supervisory personnel and other principal employees as the commission may consider appropriate for qualification, must qualify under the standards, except residency, established for qualification of a casino key employee under P.L. 1977, c. 110 (C. 5:12-1 et seq.). No casino licensee or junket enterprise may employ or otherwise engage the services of a junket enterprise who is not so licensed.

Notwithstanding the foregoing, any licensed junket representative who is the sole owner and operator of a junket enterprise shall not be required to be licensed as a junket enterprise pursuant to this section if his junket representative license is endorsed as such.

d. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the State of New Jersey and shall demonstrate to the satisfaction of the commission that he is amenable to service of process within this State. Failure to establish or maintain compliance with the requirements of this subsection shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

e. (Deleted by amendment, P.L. 1987, c. 426.)

f. Every agreement concerning junkets entered into by a casino licensee and a junket representative or junket enterprise shall be deemed to include a provision for its termination without liability on the part of the casino licensee, if the commission orders the termination upon the suspension, limitation, conditioning, denial or

revocation of the licensure of the junket representative or junket enterprise, in accordance with the provisions of P.L. 1977, c. 110 (C. 5:12-1 et seq.). Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

g. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a casino licensee.

h. A casino licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other provisions of this act, the commission may, after hearings in accordance with this act, order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the casino licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

i. The commission shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by casino licensees. Without limitation of the foregoing, each casino licensee, in accordance with the rules of the commission, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises, which report may include acknowledgments by the participants, signed on the date of arrival, that they understand the terms of the particular junket;

(2) Submit to the commission and division a report on those arrangements which would be junkets but for the fact that those arrangements do not include a selection or approval of participants in accordance with the terms of section 29 of P.L. 1977, c. 110 (C. 5:12-29); and

(3) Submit to the commission and division a list of all its employees who are acting as junket representatives but whose licenses are not endorsed as such.

j. Each casino licensee, junket representative or junket enterprise shall, in accordance with the rules of the commission, file a report with the division with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the casino licensee, junket representative or enterprise.

k. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" established by section 2 of P.L. 1977, c. 110 (C. 5:12-29) shall not require compliance with any or all of the requirements of this section. The commission shall seek the opinion of the division prior to granting any exemption. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this act. In applying the provisions of this subsection, the commission may condition, limit, or restrict any exemption as the commission may deem appropriate.

l. No junket enterprise or junket representative or person acting as a junket representative may:

(1) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(2) Exercise approval authority with regard to the authorization or issuance of credit pursuant to section 101 of P.L. 1977, c. 110 (C. 5:12-101);

(3) Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit pursuant to subsection c. of section 101 of P.L. 1977, c. 110 (C. 5:12-101);

(4) Individually receive or retain any fee from a patron for the privilege of participating in a junket;

(5) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

m. No casino licensee shall offer or provide any complimentary services, gifts, cash or other items of value to any person unless:

(1) The complimentary consists of room, food, beverage or entertainment expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party; or

(2) The complimentary consists of documented transportation expenses provided directly to the patron and his guests by the

licensee or indirectly to the patron and his guests on behalf of a licensee by a third party, provided that the licensee complies with regulations promulgated by the commission to ensure that a patron's and his guests' documented transportation expenses are paid for or reimbursed only once; or

(3) The complimentary consists of coins, tokens, cash or other complimentary items or services provided through a bus coupon or other complimentary distribution program approved by the commission or maintained pursuant to commission regulation; or

(4) The complimentary consists of noncash gifts, provided that such noncash gifts in excess of \$2,000.00 per trip or such greater amount as the commission may establish by regulation provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party shall be supported by documentation regarding the reason the non-cash gift was provided to the patron and his guests, including where applicable, a patron's player rating, to be maintained by the casino licensee. For the purposes of this paragraph, all noncash gifts presented to a patron and the patron's guests within any five-day period shall be considered a single noncash gift.

Each casino licensee shall maintain a regulated complimentary service account, for those complimentaries which are permitted pursuant to this section, and shall submit a quarterly report to the commission based upon such account and covering all complimentary services offered or engaged in by the licensee during the immediately preceding quarter. Such reports shall include identification of the regulated complimentary services and their respective costs, the number of persons by category of service who received the same, and such other information as the commission may require.

n. As used in this subsection, "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a

principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner or consultant regularly employed or retained by such planning board or zoning board of adjustment.

No casino applicant or licensee shall provide directly or indirectly to any person any complimentary service or discount which is other than such service or discount that is offered to members of the general public in like circumstance.

o. (1) Any person who, on the effective date of this 1987 amendatory act, holds a current and valid plenary junket representative license or a junket enterprise license authorizing the conduct of junket activities, shall be considered licensed in accordance with the provisions of this section as a junket representative or junket enterprise, respectively, for the remaining term of his current license.

(2) Any person who, on the effective date of this 1987 amendatory act, holds a current and valid temporary junket representative or junket enterprise license authorizing the conduct of junket activities shall be permitted to act as, or perform the services of a junket representative or junket enterprise so long as such junket representative or junket enterprise files with the commission an application for licensure pursuant to the provisions of this 1987 amendatory act within 90 days of the effective date hereof. Any junket representative or junket enterprise so filing shall be permitted to engage in junket activities until the commission has acted upon such application. Any junket representative or junket enterprise not so filing shall not be permitted to act as, or perform the services of, a junket representative or junket enterprise upon the expiration of 90 days from and after the effective date of this 1987 amendatory act.

6. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 427

AN ACT concerning the forfeiture of public office and amending N.J.S. 2C:51-2 and supplementing Title 2C of the New Jersey Statutes.

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

1. N.J.S. 2C:51-2 is amended to read as follows:

Forfeiture of public office.

2C:51-2. Forfeiture of Public Office. a. A person holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, who is convicted of an offense shall forfeit such office or position if:

(1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime;

(2) He is convicted of an offense involving or touching such office, position or employment; or

(3) The Constitution or a statute other than the code so provides.

b. The forfeiture set forth in subsection a. shall take effect:

(1) Upon finding of guilt by the trier of fact or a plea of guilty, if the court so orders; or

(2) Upon sentencing unless the court for good cause shown, orders a stay of such forfeiture. If the conviction be reversed, he shall be restored, if feasible, to his office, position or employment with all the rights, emoluments and salary thereof from the date of forfeiture.

c. In addition to the punishment prescribed for the offense, and the forfeiture set forth in 2C:51-2a., any person convicted of an offense involving or touching on his public office, position or employment shall be forever disqualified from holding any office or position of honor, trust or profit under this State or any of its administrative or political subdivisions.

d. Any forfeiture or disqualification under subsection a., b. or c. which is based upon a conviction of a disorderly persons or petty disorderly persons offense may be waived by the court upon application of the county prosecutor or the Attorney General and for good cause shown.

e. Except as may otherwise be ordered by the Attorney General as the public need may require, any person convicted of an offense

under section 2C:27-2, 2C:27-4, 2C:27-6, 2C:27-7, 2C:29-4, 2C:30-2, or 2C:30-3 of this Title shall be ineligible, either directly or indirectly, to submit a bid, enter into any contract, or to conduct any business with any board, agency, authority, department, commission, public corporation, or other body of this State, of this or one or more other states, or of one or more political subdivisions of this State for a period of, but not more than, 10 years from the date of conviction for a crime of the second degree, or five years from the date of conviction for a crime of the third degree. It is the purpose of this subsection to bar any individual convicted of any of the above enumerated offenses and any business, including any corporation, partnership, association or proprietorship in which such individual is a principal, or with respect to which such individual owns, directly or indirectly, or controls 5% or more of the stock or other equity interest of such business, from conducting business with public entities.

The State Treasurer shall keep and maintain a list of all corporations barred from conducting such business pursuant to this section.

2. (New section) Any person convicted of a disorderly persons offense or a petty disorderly persons offense within the year preceding the effective date of this 1987 amendatory and supplementary act may have application made on his behalf in accordance with N.J.S. 2C:51-2 to the sentencing court to waive any disqualification which may have resulted pursuant to N.J.S. 2C:51-2.

3. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 428

AN ACT concerning self-insurance for motor vehicles, amending and supplementing P.L. 1952, c. 173.

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

1. Section 30 of P.L. 1952, c. 173 (C. 39:6-52) is amended to read as follows:

C. 39:6-52 Certificate of self-insurance.

30. (a) Any person in whose name more than 25 motor vehicles

are registered or in whose name more than 25 motor vehicles are leased may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Commissioner of Insurance as provided in subsection (b) of this section.

(b) The commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) The application shall be on a form prescribed by the commissioner, and shall include any information which the commissioner deems to be necessary to determine the applicant's eligibility for self-insurance, including, but not limited to, information on the number and types of the motor vehicles which are to be self-insured, the proposed use of the vehicles, and financial information regarding the applicant. The certificate shall be issued for a one-year period and each holder of a certificate shall make application for renewal.

(d) If the applicant for a certificate of self-insurance is a corporation, the commissioner may also include in the certificate of self-insurance any subsidiary corporation under the control of that corporation if the parent corporation guarantees that it will discharge the subsidiary corporation's liability pursuant to the provisions of this act. In the event that the ownership of the parent or a subsidiary corporation changes, the parent or subsidiary shall reapply for a certificate of self-insurance within 30 days of the ownership change. If the parent corporation does not provide a guarantee that it will discharge the subsidiary corporation's liability, the subsidiary shall make separate application and receive independent qualification as a self-insurer.

(e) The commissioner may make or cause to be made audits or examinations as he may deem necessary to determine the financial ability of the applicant or certificate holder to discharge his obligations as a self-insurer. The reasonable expenses of the audit or examination shall be fixed and determined by the commissioner, and shall be payable by the applicant or certificate holder upon presentation of a detailed account of expenses.

(f) The commissioner may require the furnishing of a surety bond or evidence of excess insurance.

(g) A filing fee of \$1,000.00 shall accompany every application for a certificate of self-insurance or a renewal thereof, except that no filing fee shall be required of any public entity which applies for a

certificate of self-insurance pursuant to this section or a renewal thereof.

(h) Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

2. Section 31 of P.L. 1952, c. 173 (C. 39:6-53) is amended to read as follows:

C. 39:6-53 Not evidence at civil trial.

31. No action taken by the commissioner pursuant to this act, the findings, if any, of the commissioner upon which such action is based, nor the security filed, as provided by this act, shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any civil action to recover damages.

3. Section 32 of P.L. 1952, c. 173 (C. 39:6-54) is amended to read as follows:

C. 39:6-54 Public entities.

32. a. This act shall not apply with respect to any motor vehicle owned by the United States, this State or any political subdivision of this State or any municipality therein; nor with respect to any motor vehicle which is subject to the requirements of law requiring insurance or other security on certain types of vehicles, other than the requirements of P.L. 1972, c. 70 (C. 39:6A-1 et seq.) or P.L. 1972, c. 197 (C. 39:6B-1 et seq.).

b. Notwithstanding the provisions of subsection a. to the contrary, the commissioner may issue a certificate of self-insurance to any public entity or group of public entities upon receipt of a resolution from the public entity or group of public entities that they have established a self-insurance program or a group self-insurance program, as the case may be.

C. 39:6-50.1 Authority to commissioner.

4. (New section) The commissioner shall have the authority to issue any rules and regulations or exercise any power granted to him by Title 17 of the Revised Statutes with respect to vehicles which are self-insured pursuant to the provisions of sections 30, 31, and 32 of P.L. 1952, c. 173 (C. 39:6A-52, 39:6A-53, and 39:6A-54).

5. (New section) Any certificate of self-insurance issued prior to

the effective date of this act shall remain valid for a period not to exceed one year following the effective date, at which time it may be renewed pursuant to the provisions of this act.

6. This act shall take effect immediately.

Approved January 14, 1988.

CHAPTER 429

AN ACT concerning pensions for employees of counties of over 800,000 inhabitants, amending P.L. 1971, c. 102, amending P.L. 1943, c. 160 and amending and supplementing P.L. 1943, c. 160.

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

1. Section 1 of P.L. 1943, c. 160 (C. 43:10-18.1) is amended to read as follows:

C. 43:10-18.1 Definitions.

1. As used in this act:

“Service” shall always, unless otherwise stated, be considered as continuous or in the aggregate.

“Salary” or “compensation” when used solely for the purpose of fixing benefits under this act means the average annual compensation for which contributions are made for the three years of creditable service as a county employee immediately preceding his retirement or death, or it shall mean the average annual compensation as a county employee for which contributions are made during any three fiscal years of his or her membership, whichever shall provide the largest possible benefit to the member or his beneficiary, or during his or her entire length of service if such service totaled less than three years, provided, however, that no benefit paid upon the death of any member under this act shall exceed, if the deceased member was retired at the time of death, 50% of the pension calculated at the time of retirement, and, if the deceased member was an employee at the time of death, 25% of salary, or 50% of the pension that the employee would have received had the employee retired upon the date of the death, whichever shall be greater, provided, however, that no benefit paid upon the death of any member shall be less than \$5,000.00 annually; provided further however, that as to any em-

ployee who, at the time of the adoption of this act, is a member of any retirement system in operation in the county under and by virtue of articles 1, 2, 5, 6 and 7 of chapter 10 of Title 43 of the Revised Statutes and of R.S. 40:37-157 to 40:37-174, inclusive, and of "An act providing for the retirement of persons employed in the department of weights and measures of any county in this State, and providing a pension for such persons so retired," filed June 21, 1938 (P.L. 1938, c. 397), and as to any employee who did not retire before September 1, 1987 and who also is a veteran as defined in section 6 of P.L. 1954, c. 84 (C. 43:15A-6) and who (i) was a member of the retirement system on January 2, 1955 and has remained in continuous service as a county employee and shall have attained the age of 60 years or (ii) shall have attained the age of 62 years and shall have accumulated credit in the retirement system for a period of 20 years the total annual salary received by such employee during the year immediately prior to his death or retirement shall be considered his salary for pension or other purposes under this act or any act authorizing pension increases in the retirement system.

"Pension fund" or "fund" means the fund referred to in section 16 of this act, and is the fund from which pensions provided for in this act shall be paid.

"State" shall, unless otherwise stated, mean the State of New Jersey.

"His" shall be construed to mean both sexes.

"County employee" or "employee" means and includes all employees and officers in service in any county of this State having a population of more than 800,000 inhabitants and shall mean and include all employees and officers of any county board, body or commission, maintained out of county funds in any such county, including the official stenographic reporter and proxies of such official stenographic reporter of such county, and shall also mean and include employees and officers appointed by such county to employment on intercounty bridges, but the same term "county employee" or "employee" does not include members of the judiciary, or any laborers, unless the labor work is paid on an hourly, daily, monthly, or annual salary basis for a continuous employment thereof and recognized as permanent appointees, it being the intent to exclude transient labor from the operation of this act. The pension commission shall determine whether or not the employment of an employee is permanent within the meaning of this act. "County em-

ployee" or "employee" shall also mean and include all elected and appointed officials of such county.

"Population" of a county shall mean the population of a county according to the federal census of 1940.

"Widow" or "widower" means the surviving unremarried spouse to whom a member of the retirement system was married for a continuous period of at least five years up to the date of the member's death. In the event of accidental death, the five year qualification shall be waived.

"Minor child" means an unmarried child under the age of 18 years.

"Permanent and total disability" means physical or mental incapacity of an employee to any longer perform the duties of his position or office.

"Employees' retirement system of (name of county)" shall be the name of the retirement system provided under the provisions of this act. By that name all of its business shall be transacted, its funds invested, warrants for money drawn and payments made and all of its cash and securities and other property held.

2. Section 13 of P.L. 1943, c. 160 (C. 43:10-18.13) is amended to read as follows:

C. 43:10-18.13 Survivors' benefits.

13. Subject to the other provisions of this act, upon and after the death of any county employee who shall have served or who shall hereafter have served in the employ of the county continuously or in the aggregate for a period of one year, there shall be paid to the surviving widow, so long as she remains unmarried; surviving widower, so long as he remains unmarried; or minor children up to the age of 18 years, as the case may be, two and one-half per cent of the salary of such employee, and for each additional year of service more than one year, the amount of said pension shall be increased to the extent of two and one-half per cent of said salary, not exceeding in any event 50% of the salary, except, if the deceased employee was at the time of death credited with more than 30 years of service and was 55 years of age or older, the benefit shall be in an amount not to exceed the amount of pension the employee would have received had the employee retired on the date of death, and not to be less than \$5,000.00 annually.

3. Section 1 of P.L. 1971, c. 102 (C. 43:10-18.15g) is amended to read as follows:

C. 43:10-18.15g Supplemental definitions.

1. As used in this act "retirant" means any former employee included in the membership of the retirement system established under the act to which this act is a supplement, who has retired from such employment, and as a result of such employment, is receiving a pension from the retirement system.

"Calendar year" means the 12-month period beginning January 1 and ending December 31.

"Retirement year" is the calendar year 1967 for all retirants who retired before the calendar year 1968; for all retirants who retired after 1967, "retirement year" is the actual calendar year of retirement.

"Index" shall mean the annual average over a calendar year of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items, Series A, of the United States Department of Labor (1957-1959 = 100). Should the reference base of said index be changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods.

"Retirement year index" shall be the index of the calendar year 1967 for all retirants who retired prior to January 1, 1968 and the index for the calendar year of retirement for all retirants who retired thereafter.

"Widow" or "widower" means the surviving unremarried spouse to whom a member of the retirement system was married for a continuous period of at least five years up to the date of the member's death. In the event of accidental death, the five year qualification shall be waived.

C. 43:10-18.18a Periodic increases.

4. (New section) Notwithstanding any other provision in P.L. 1943, c. 160 (C. 43:10-18.1 et seq.) and P.L. 1971, c. 102 (C. 43:10-18.15g et seq.), in the event a retirant who had been actively employed on or after September 1, 1987 has died or shall die, periodic increases in his pension shall continue to be calculated as if he or she had remained alive and the retirant's widow or widower shall be entitled to receive one-half of those periodic increases.

C. 43:10-18.16a Permissible agreements.

5. (New section) Notwithstanding any other provision in this act to the contrary, the pension commission and the county may upon the unanimous vote of the members of the pension commission enter into an agreement which may include any of the following:

a. A provision transferring control and management of the pension fund which previously was exercised by the pension commission pursuant to section 3 of P.L. 1943, c. 160 (C. 43:10-18.3) directly to the county.

b. A provision that the county may invest the assets of the pension fund in the manner authorized by section 5 of P.L. 1943, c. 160 (C. 43:10-18.5) or may use those assets to purchase an annuity to fund all or a portion of the county's pension obligations or to service any debt obligation incurred by the county in connection with the purchase of any annuity contract to pay pension obligations of the retirement system.

c. A provision that the county shall be responsible for the timely payment of all pensions, refunds or other benefits that shall become owing pursuant to the legislation governing the retirement system.

d. A provision that section 4 of P.L. 1943, c. 160 (C. 43:10-18.4), and subsections (b) and (c) of section 16 of P.L. 1943, c. 160 (C. 43:10-18.16) shall no longer apply to the county or the pension commission.

e. A provision requiring the actuary appointed by the pension commission on or before October 1 of each year to evaluate whether there are sufficient reserves contained in existing annuities or in the pension fund to pay all of the county's anticipated obligations as those obligations become due during the next fiscal year and, in the event the actuary concludes such reserves are insufficient, the county shall be required to appropriate, raise by taxation and pay over to the pension fund a sum of money equal to the anticipated deficit.

6. Section 15 of P.L. 1943, c. 160 (C. 43:10-18.15) is amended to read as follows:

C. 43:10-18.15 Mandatory provisions.

15. The following provisions shall apply to all members of the retirement system:

(a) No pension shall be paid to the surviving husband of a deceased member of the retirement system unless he is and continues

to remain dependent upon the income which the member was receiving at the time of her death, nor unless he is and continues to remain physically or mentally incapable of pursuing a gainful occupation. The pension commission shall determine the question of the dependency of the surviving husband as well as the ability of a surviving husband to pursue a gainful occupation.

(b) (Deleted by amendment.)

(c) (Deleted by amendment.)

(d) (Deleted by amendment.)

(e) The rights of any employee or beneficiary to receive any payments under the workmen's compensation act of New Jersey shall not be affected or impaired by any of the provisions of this act.

(f) Where the service of an employee is terminated by reason of imposition of a sentence upon him of actual commitment to a penal institution on account of conviction of an indictable offense involving moral turpitude, no pension under this act shall be paid to any such employee; provided, however, that no member of this retirement system who shall have served honorably as a county employee for a period of 20 years and shall have attained the age of 60 years shall be deprived of his pension privileges because of any violation of the rules and regulations established for the government of such county employment, but he may be fined, reprimanded or discharged.

(g) Where any pension or other benefit shall be payable from the pension fund herein provided to any retired employee or other beneficiary who is or shall be confined in a penal institution as the result of a conviction of a crime involving moral turpitude, the pension commission may pay such pension or any part of it or other benefit to the wife, husband, minor children, mother or father of the confined person if it determines the same is necessary for their maintenance during such confinement.

(h) All payments of pensions shall be made semimonthly and payments of pensions, refunds or other benefits under this act shall be made without interest.

(i) (Deleted by amendment, P.L. 1987, c. 429.)

7. This act shall take effect on June 15, 1988.

Approved January 14, 1988.

CHAPTER 430

AN ACT concerning the protection of cats and repealing R.S. 23:4-63.

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

Repealer.

1. R.S. 23:4-63 is repealed.
2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 431

AN ACT to permit certain not-for-profit and nonprofit corporations and medical and non-medical residential facilities to form joint self-insurance pools and supplementing Title 15A of the New Jersey Statutes.

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

C. 17:49A-1 Short title.

1. This act shall be known, and may be cited as the "Nonprofit Corporation—Keys Amendment Facility Insurance Pooling Act."

C. 17:49A-2 Findings, declarations.

2. The Legislature finds and declares that:
 - a. The lack of availability and escalating cost of liability insurance, when available, has caused a crisis nationally and in this State. Not-for-profit and nonprofit corporations as well as medical and non-medical facilities that provide residences for the elderly and disabled have been especially hard hit by the liability insurance crisis.
 - b. It is the public policy of this State that facilities which operate without profit or provide residential settings where significant numbers of elderly or disabled Supplemental Security Income (SSI) recipients reside should have access to adequate and affordable liability insurance coverage.

c. To this end, it is incumbent upon the State to provide a means by which adequate and affordable liability coverage can be obtained by these entities.

C. 17:49A-3 Definitions.

3. As used in this act:

a. "Board" means the board of trustees or the group of persons vested with management of the business and affairs of a nonprofit corporation regardless of the name by which the group or persons are designated.

b. "Keys amendment facility" means a medical or non-medical residential setting designated by the State as a facility that meets the requirements of the "Social Security Act," Pub.L. 93-233 (42 U.S.C. §1382e) as implemented by 45 CFR §1397.1 et seq.

c. "Nonprofit corporation" means any corporation organized under the "New Jersey Nonprofit Corporation Act," N.J.S. 15A:1-1 et seq., or any corporation as defined by N.J.S. 15A:1-2e.

d. "Owner" means the person or group vested with ownership and management of a Keys amendment facility regardless of the name by which the person or group is designated.

C. 17:49A-4 Joint insurance funds.

4. a. The board of a nonprofit corporation may, by resolution, agree to participate with any other nonprofit corporation or corporations in a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation.

b. The owner of a Keys amendment facility may agree, in writing, to participate with any other Keys amendment facility or facilities in a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation.

C. 17:49A-5 Insurance fund commission.

5. a. Upon the establishment of a nonprofit corporation joint insurance fund, the chief executive officer or the board of each participating nonprofit corporation shall appoint one of its officers or one member of its board to represent that nonprofit corporation as insurance fund commissioner. Together, they shall constitute an insurance fund commission. Commissioners shall hold office at the pleasure of the chief executive officer or board who appointed them, or as long as they remain a member of the board or a corporate officer, whichever shall be less, and until their successors shall have been duly appointed and qualified. In the event that the number of non-

profit corporations represented is an even number, an additional member shall be annually selected by the participating nonprofit corporations. If the total number of commissioners exceeds seven, the commissioners shall annually meet to select not more than seven commissioners to serve as the executive committee of the fund. The executive committee shall exercise the full power and authority of the commission. Vacancies on the executive committee shall be filled by election of the entire commission. The commissioners shall serve without compensation. Any vacancy in the office of insurance fund commissioner shall be filled by an appointment by the chief executive officer or board of the participating nonprofit corporation as described in this subsection. The commission shall annually elect a chairman and a secretary.

b. Upon the establishment of a Keys amendment facility joint insurance fund, the owner of each participating Keys amendment facility shall represent, or the owners shall appoint one owner to represent that facility as insurance fund commissioner. Together, they shall constitute an insurance fund commission. Commissioners of Keys amendment facility joint insurance funds who represent a facility that has more than one owner shall serve as commissioner as long as they remain an owner of the facility and until their successors shall have been duly appointed and qualified. In the event that the number of facilities is an even number, an additional member shall be annually selected by the participating facilities. If the total number of commissioners exceeds seven, the commissioners shall annually meet to select not more than seven commissioners to serve as the executive committee of the fund. The executive committee shall exercise the full power and authority of the commission. Vacancies on the executive committee shall be filled by election of the entire commission. The commissioners shall serve without compensation. Any vacancy in the office of insurance fund commissioner shall be filled by the owner of a Keys amendment facility as described in this subsection. The commission shall annually elect a chairman and a secretary.

C. 17:49A-6. Bylaws.

6. The commissioners of any joint insurance fund created under the provisions of this act shall prepare and, after the approval by resolution of the board of each participating nonprofit corporation, or approval of the owner of each participating Keys amendment facility, as the case may be, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

- a. Procedures for the organization and administration of the joint insurance fund, the insurance fund commission and, if appropriate, the executive board of the fund. The procedures may include the designation of one participating nonprofit corporation or Keys amendment facility, as the case may be, to serve as the lead agency to be responsible for the custody and maintenance of the assets of the fund and such other duties as may be assigned by the commissioners of the fund;
- b. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;
- c. Procedures for the maintenance and administration of appropriate reserves in accordance with sound actuarial principles;
- d. Procedures for the purchase of commercial direct insurance or reinsurance, if any;
- e. Contingency plans for paying losses in the event that the fund is exhausted;
- f. Procedures governing loss adjustment and legal fees;
- g. Procedures for the joining of the fund by a nonparticipating nonprofit corporation or Keys amendment facility, as the case may be;
- h. Procedures for the withdrawal from the fund by a participating nonprofit corporation or Keys amendment facility, as the case may be;
- i. Procedures for the expulsion of a participating nonprofit corporation or Keys amendment facility, as the case may be;
- j. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations; and
- k. Such other procedures and plans as the Commissioner of Insurance may require by rule or regulation.

C. 17:49A-7 Plan of risk management.

7. The commissioners shall prepare, or cause to be prepared, a plan of risk management for the joint insurance fund. The plan shall include, but not be limited to:

- a. The perils or liabilities to be insured against;
- b. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;

- c. The amount of risk to be retained by the fund;
- d. The amount of reserves to be established;
- e. The contributions to be paid by each participating nonprofit corporation or Keys amendment facility, as the case may be;
- f. Coverage to be purchased from a commercial insurer, if any;
- g. Reinsurance to be purchased, if any, and the amount of premium therefor; and
- h. Such other procedures and information as the Commissioner of Insurance may require by rule or regulation.

For purposes of this section "a plan of risk management" is a plan, and activities carried out under the plan, binding upon the participants in a joint insurance fund to reduce risk of loss with respect to a particular line of insurance protection or coverage provided by a fund. Plans of risk management also include the administration of one or more funds, including the processing and defense of claims brought against or on behalf of participants.

C. 17:49A-8 Approval by commissioner.

8. No joint insurance fund shall begin providing insurance coverage to its participants until its bylaws and plan of risk management have been approved as provided in this section.

a. The commissioners of each joint insurance fund shall file with the Commissioner of Insurance for his approval a copy of the fund's bylaws adopted pursuant to section 6 of this act and a copy of the fund's plan of risk management prepared pursuant to section 7 of this act.

b. Within 30 working days of receipt, the Commissioner of Insurance shall either approve or disapprove the bylaws or plan of risk management of any joint insurance fund. If the Commissioner of Insurance fails either to approve or disapprove the bylaws or plan of risk management within that 30 working day period, the bylaws or plan shall be deemed approved.

c. If any bylaws or plan shall be disapproved, the Commissioner of Insurance shall set forth in writing the reason for disapproval. Upon the receipt of the notice of disapproval, the commissioners of the affected joint insurance fund may request a hearing. The hearing shall be convened by the Commissioner of Insurance in a timely manner.

C. 17:49A-9 Insurance coverage.

9. Upon the approval of its bylaws and plan of risk management pursuant to the provisions of section 8 of this act, a joint insurance fund may provide insurance coverage to its participants by self-insurance, the purchase of commercial insurance or reinsurance, or any combination thereof.

C. 17:49A-10 Amendments.

10. The commissioners may, from time to time, amend the bylaws and plan of risk management of the fund; provided, however, that no such amendment shall take effect until approved as provided in this section.

a. The commissioners shall file with the Commissioner of Insurance for his approval a copy of any amendment to the bylaws of the fund upon approval, by resolution, of the board of each participating nonprofit corporation, or written approval signed by the owner of each participating Keys amendment facility, as the case may be, or any amendment to the plan of risk management, upon adoption by the commissioners.

b. Within 30 working days of receipt, the Commissioner of Insurance shall either approve or disapprove any amendment to the bylaws or plan of risk management. If the Commissioner of Insurance fails either to approve or disapprove the amendment within that 30 working day period, the amendment shall be deemed approved.

c. If any amendment shall be disapproved, the Commissioner of Insurance shall set forth in writing the reasons for disapproval. Upon the receipt of the notice of disapproval, the commissioners of the affected joint insurance fund may request a hearing. The hearing shall be convened by the Commissioner of Insurance in a timely manner.

C. 17:49A-11 Suspension, termination of authority.

11. The Commissioner of Insurance shall have the authority to suspend or terminate the authority of any joint insurance fund, or to assume control of the insurance fund, or to direct or take any action he may deem necessary, for good cause, to enable a fund to meet its obligations, cover its expected losses or to liquidate, rehabilitate or otherwise modify its affairs. Such action shall be taken by the Commissioner of Insurance in the event of:

a. Failure to comply with the rules and regulations promulgated by the Commissioner of Insurance or with any of the provisions of this act;

b. A failure to comply with a lawful order of the Commissioner of Insurance; or

c. A deterioration of the financial condition of the fund to the extent that it causes an adverse effect upon the ability of the joint insurance fund to pay expected losses.

C. 17:49A-12 Filing of agreements.

12. The Commissioner of Insurance may, in his discretion, require the commissioners of any fund to file copies of any agreements or contracts entered into by the commissioners of the fund, or any other pertinent documents as he may deem necessary.

C. 17:49A-13 Annual audit.

13. The insurance fund commissioners or the executive board thereof, as the case may be, shall cause an annual audit to be conducted by an independent certified public accountant in accordance with the rules and regulations promulgated by the Commissioner of Insurance pursuant to section 16 of this act. Copies of every audit shall be submitted to the Commissioner of Insurance within 30 working days of its completion.

C. 17:49A-14 Examination.

14. The Commissioner of Insurance may conduct an examination of any joint insurance fund that he deems necessary. The expense of any such examination shall be borne by the fund.

C. 17:49A-15 Not insurance company.

15. A joint insurance fund established pursuant to the provisions of this act is not an insurance company nor an insurer under the laws of this State, and the authorized activities of the fund do not constitute the transaction of insurance nor the conducting of an insurance business. A fund established pursuant to this act shall not be subject to the provisions of Subtitle 3 of Title 17 of the Revised Statutes.

C. 17:49A-16 Rules, regulations.

16. The Commissioner of Insurance shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), to effectuate the purposes of this act. Such rules and regulations shall include, but not be limited to, the establishment, operation, modification and dissolution of joint insurance funds established pursuant to the provisions of this act.

17. This act shall take effect on the 60th day after enactment.

Approved January 15, 1988.

CHAPTER 432

AN ACT concerning conflicts of interest and amending the title and body of P.L. 1971, c. 182.

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

Title amended.

1. The title of P.L. 1971, c. 182 is amended to read as follows:

An act for the more effectual regulation of the conduct of State officers and employees, special State officers and employees and members of the Legislature, repealing the "New Jersey Conflicts of Interest Law" (P.L. 1967, c. 229), and supplementing Title 52 of the Revised Statutes.

2. Section 2 of P.L. 1971, c. 182 (C. 52:13D-13) is amended to read as follows:

C. 52:13D-13 Definitions.

2. As used in this act, and unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

- a. "State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and, to the extent consistent with law, any interstate agency to which New Jersey is a party and any independent State authority, commission, instrumentality or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

- b. "State officer or employee" means any person, other than a special State officer or employee (1) holding an office or employment in a State agency, excluding an interstate agency, other than a member of the Legislature or (2) appointed as a New Jersey member to an interstate agency.

- c. "Member of the Legislature" means any person elected to serve in the General Assembly or the Senate.

- d. "Head of a State agency" means (1) in the case of the Executive Branch of government, except with respect to interstate agencies, the department head or, if the agency is not assigned to a

department, the Governor, and (2) in the case of the Legislative Branch, the chief presiding officer of each House of the Legislature.

e. "Special State officer or employee" means (1) any person holding an office or employment in a State agency, excluding an interstate agency, for which office or employment no compensation is authorized or provided by law, or no compensation other than a sum in reimbursement of expenses, whether payable per diem or per annum, is authorized or provided by law; (2) any person, not a member of the Legislature, holding a part-time elective or appointive office or employment in a State agency, excluding an interstate agency, or (3) any person appointed as a New Jersey member to an interstate agency the duties of which membership are not full-time.

f. "Person" means any natural person, association or corporation.

g. "Interest" means (1) the ownership or control of more than 10% of the profits or assets of a firm, association, or partnership, or more than 10% of the stock in a corporation for profit other than a professional service corporation organized under the "Professional Service Corporation Act," P.L. 1969, c. 232 (C. 14A:17-1 et seq.); or (2) the ownership or control of more than 1% of the profits of a firm, association, or partnership, or more than 1% of the stock in any corporation, which is the holder of, or an applicant for, a casino license or in any holding or intermediary company with respect thereto, as defined by the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.). The provisions of this act governing the conduct of individuals are applicable to shareholders, associates or professional employees of a professional service corporation regardless of the extent or amount of their shareholder interest in such a corporation.

h. "Cause, proceeding, application or other matter" means a specific cause, proceeding or matter and does not mean or include determinations of general applicability or the preparation or review of legislation which is no longer pending before the Legislature or the Governor.

i. "Member of the immediate family" of any person means the person's spouse, child, parent or sibling residing in the same household.

3. Section 5 of P.L. 1971, c. 182 (C. 52:13D-16) is amended to read as follows:

C. 52:13D-16 Prohibited representation.

5. a. No special State officer or employee, nor any partnership,

firm or corporation in which he has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before the particular office, bureau, board, council, commission, authority, agency, fund or system in which such special State officer or employee holds office or employment.

b. No State officer or employee or member of the Legislature, nor any partnership, firm or corporation in which he has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before any State agency; provided, however, this subsection shall not be deemed to prohibit a member of the Legislature from making an inquiry for information on behalf of a constituent, if no fee, reward, or other thing of value is promised to, given to or accepted by the member of the Legislature, whether directly or indirectly nor shall anything contained herein be deemed to prohibit any such partnership, firm or corporation from appearing on its own behalf.

c. Nothing contained in this section shall be deemed to prohibit any legislator, or any State officer or employee or special State officer or employee from representing, appearing for or negotiating on behalf of, or agreeing to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any proceeding:

- (1) Pending before any court of record of this State,
- (2) In regard to a claim for compensation arising under chapter 15 of Title 34 of the Revised Statutes (Workers' Compensation),
- (3) In connection with the determination or review of transfer inheritance or estate taxes,
- (4) In connection with the filing of corporate or other documents in the office of the Secretary of State,
- (5) Before the Division on Civil Rights or any successor thereof,
- (6) Before the New Jersey State Board of Mediation or any successor thereof,

(7) Before the New Jersey Public Employment Relations Commission or any successor thereof,

(8) Before the Unsatisfied Claim and Judgment Fund Board or any successor thereof solely for the purpose of filing a notice of intention pursuant to P.L. 1952, c. 174, §5 (C. 39:6-65), or

(9) Before any State agency on behalf of a county, municipality or school district, or any authority, agency or commission of any thereof except where the State is an adverse party in the proceeding and provided he is not holding any office or employment in the State agency in which any such proceeding is pending.

4. Section 6 of P.L. 1971, c. 182 (C. 52:13D-17) is amended to read as follows:

C. 52:13D-17 Post-employment restrictions.

6. No State officer or employee or special State officer or employee, subsequent to the termination of his office or employment in any State agency, shall represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, or agree to represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, whether by himself or through any partnership, firm or corporation in which he has an interest or through any partner, officer or employee thereof, any person or party other than the State in connection with any cause, proceeding, application or other matter with respect to which such State officer or employee or special State officer or employee shall have made any investigation, rendered any ruling, given any opinion, or been otherwise substantially and directly involved at any time during the course of his office or employment. Any person who willfully violates the provisions of this section is a disorderly person, and shall be subject to a fine not to exceed \$500.00 or imprisonment not to exceed six months, or both.

5. Section 8 of P.L. 1971, c. 182 (C. 52:13D-19) is amended to read as follows:

C. 52:13D-19 Contracts of State agencies.

8. a. No member of the Legislature or State officer or employee shall knowingly himself, or by his partners or through any corporation which he controls or in which he owns or controls more than 1% of the stock, or by any other person for his use or benefit or on his account, undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made,

entered into, awarded or granted by any State agency, except as provided in subsection b. of this section. No special State officer or employee having any duties or responsibilities in connection with the purchase or acquisition of property or services by the State agency where he is employed or an officer shall knowingly himself, by his partners or through any corporation which he controls or in which he owns or controls more than 1% of the stock, or by any other person for his use or benefit or on his account, undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by that State agency, except as provided in subsection b. of this section. The restriction contained in this subsection shall apply to the contracts of interstate agencies to the extent consistent with law only if the contract, agreement, sale or purchase is undertaken or executed by a New Jersey member to that agency or by his partners or a corporation in which he owns or controls more than 1% of the stock.

b. The provisions of subsection a. of this section shall not apply to (a) purchases, contracts, agreements or sales which (1) are made or let after public notice and competitive bidding or which (2), pursuant to section 5 of chapter 48 of the laws of 1944 (C. 52:34-10) or such other similar provisions contained in the public bidding laws or regulations applicable to other State agencies, may be made, negotiated or awarded without public advertising for bids, or (b) any contract of insurance entered into by the Director of the Division of Purchase and Property pursuant to section 10 of article 6 of chapter 112 of the laws of 1944 (C. 52:27B-62), if such purchases, contracts or agreements, including change orders and amendments thereto, shall receive prior approval of the Joint Legislative Committee on Ethical Standards if a member of the Legislature or State officer or employee or special State officer or employee in the Legislative Branch has an interest therein, or the Executive Commission on Ethical Standards if a State officer or employee or special State officer or employee in the Executive Branch has an interest therein.

6. Section 12 of P.L. 1971, c. 182 (C. 52:13D-23) is amended to read as follows:

C. 52:13D-23 Codes of ethics.

12. (a) The head of each State agency, or the principal officer in charge of a division, board, bureau, commission or other instrumentality within a department of State Government designated by the head of such department for the purposes hereinafter set forth, shall within six months from the date of enactment, promulgate a

code of ethics to govern and guide the conduct of the members of the Legislature, the State officers and employees or the special State officers and employees in the agency to which said code is applicable. Such code shall conform to the general standards hereinafter set forth in this section, but it shall be formulated with respect to the particular needs and problems of the agency to which said code is to apply. Notwithstanding any other provisions of this section, the New Jersey members to any interstate agency to which New Jersey is a party and the officers and employees of any State agency which fails to promulgate a code of ethics shall be deemed to be subject to a code of ethics the provisions of which shall be paragraphs (1) through (6) of subsection (e) of this section.

(b) A code of ethics formulated pursuant to this section to govern and guide the conduct of the State officers and employees or the special State officers and employees in any State agency in the Executive Branch, or any portion of such a code, shall not be effective unless it has first been approved by the Executive Commission on Ethical Standards. When a proposed code is submitted to the said commission it shall be accompanied by an opinion of the Attorney General as to its compliance with the provisions of this act and any other applicable provision of law. Nothing contained herein shall prevent officers of State agencies in the Executive Branch from consulting with the Attorney General or with the Executive Commission on Ethical Standards at any time in connection with the preparation or revision of such codes of ethics.

(c) A code of ethics formulated pursuant to this section to govern and guide the conduct of the members of the Legislature, State officers and employees or special State officers and employees in any State agency in the Legislative Branch, or any portion of such code, shall not be effective unless it has first been approved by the Legislature by concurrent resolution. When a proposed code is submitted to the Legislature for approval it shall be accompanied by an opinion of the chief counsel as to its compliance with the provisions of this act and any other applicable provisions of law. Nothing contained herein shall prevent officers of State agencies in the Legislative Branch from consulting with the Chief Legislative Counsel or the Joint Legislative Committee on Ethical Standards at any time in connection with the preparation or revision of such codes of ethics.

(d) Violations of a code of ethics promulgated pursuant to this section shall be cause for removal, suspension, demotion or other disciplinary action by the State officer or agency having the power

of removal or discipline. When a person who is in the classified civil service is charged with a violation of such a code of ethics, the procedure leading to such removal or discipline shall be governed by any applicable provisions of the Civil Service Law and the Rules of the Department of Civil Service. No action for removal or discipline shall be taken under this subsection except upon the referral or with the approval of the Executive Commission on Ethical Standards or the Joint Legislative Committee on Ethical Standards, whichever is authorized to exercise jurisdiction with respect to the complaint upon which such action for removal or discipline is to be taken.

(e) A code of ethics for officers and employees of a State agency shall conform to the following general standards:

(1) No State officer or employee or special State officer or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

(2) No State officer or employee or special State officer or employee should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the Executive Commission on Ethical Standards, if he is an officer or employee in the Executive Branch, or with the Joint Legislative Committee on Ethical Standards, if he is an officer or employee in the Legislative Branch.

(3) No State officer or employee or special State officer or employee should use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.

(4) No State officer or employee or special State officer or employee should act in his official capacity in any matter wherein he has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(5) No State officer or employee or special State officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his objectivity and independence of judgment in the exercise of his official duties.

(6) No State officer or employee or special State officer or em-

ployee should accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing him in the discharge of his official duties.

(7) No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee.

(8) Rules of conduct adopted pursuant to these principles should recognize that under our democratic form of government public officials and employees should be drawn from all of our society, that citizens who serve in government cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officials and employees have a right to private interests of a personal, financial and economic nature; that standards of conduct should separate those conflicts of interest which are unavoidable in a free society from those conflicts of interest which are substantial and material, or which bring government into disrepute.

(f) The code of ethics for members of the Legislature shall conform to subsection (e) hereof as nearly as may be possible.

7. This act shall take effect on the 30th day after the date of enactment.

Approved January 15, 1988.

CHAPTER 433

AN ACT concerning alcoholic beverages and amending R.S. 33:1-43.

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

1. R.S. 33:1-43 is amended to read as follows:

Alcoholic beverage retailing restrictions.

33:1-43. a. It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person

whatsoever interested in any way whatsoever in any brewery, winery, distillery or rectifying and blending plant, or any wholesaler of alcoholic beverages, to conduct, own either in whole or in part, or be directly or indirectly interested in the retailing of any alcoholic beverages in New Jersey except as provided in this chapter, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said brewery, winery, distillery, rectifying and blending plant or wholesaler.

b. It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person whatsoever, interested in any way whatsoever in the retailing of alcoholic beverages to conduct, own either whole or in part, or to be a shareholder, officer or director of a corporation or association, directly or indirectly interested in any brewery, winery, distillery, rectifying and blending plant, or wholesaling or importing interest of any kind whatsoever.

No interest in the retailing of alcoholic beverages shall be deemed to exist by reason of the ownership, delivery or loan of interior signs designed for and exclusively used for advertising the product of or product offered for sale by such brewery, winery, distillery or rectifying and blending plant or wholesaler.

c. Nothing in this section shall prohibit:

(1) The exercise of limited retail privileges by Class A or Class B licensees conferred pursuant to R.S. 33:1-10, R.S. 33:1-11, by rule or regulation or by special permit issued by the director;

(2) Any owner, part owner, stockholder, officer or director of any corporation, or any other person whatsoever interested in any way whatsoever in any brewery, winery, distillery, rectifying and blending plant or any wholesaler of alcoholic beverages, from conducting, owning, either in whole or in part, or being directly or indirectly interested in the retailing of any alcoholic beverages, under any retail consumption license or State issued permit, in conjunction with and as a part of the operations of a hotel or motel; or

(3) Any owner, part owner, stockholder or officer or director of any corporation, or any other person or corporation interested in any way whatsoever in the retailing of alcoholic beverages, under a retail consumption license or State issued permit, in conjunction with and as a part of the operations of a hotel or motel from conducting,

owning, either in whole or in part, or being a shareholder, officer or director of a corporation or association, directly or indirectly interested in any brewery, winery, distillery, rectifying and blending plant, or wholesaling or importing interest of any kind whatsoever.

No more than 20% of the total gross annual revenues of a hotel or motel described in paragraphs (2) and (3) shall be derived from the sale of alcoholic beverages by the hotel or motel. A retail licensee described in paragraphs (2) and (3) shall not purchase or sell any alcoholic beverage product produced or sold by the brewery, winery, distillery, rectifying and blending plant, wholesaler or importer that has any interest in the retail license of the hotel or motel, unless the total of all such products is 5% or less of the total volume of alcoholic beverage products purchased and sold annually by the hotel or motel holding the retail license. The retail licensee shall, within 30 days following the effective date of this act, file with the Division of Alcoholic Beverage Control a list of all alcoholic beverage products which shall not be purchased or sold by the hotel or motel except to the extent permitted herein. Thereafter, the retail licensee shall file a new or amended list with the division within 30 days of any changed circumstances which affect the information on the list. This list shall be made available to the public upon request.

For purposes of this subsection, "hotel" or "motel" means an establishment containing at least 100 guest room accommodations where the relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest.

2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 434

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 11 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 six public members to be appointed by the Governor, no more than three of whom shall be from the same political party.

2. 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 9, 1990.

3. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 435

AN ACT concerning the modernization of the Division of Commercial Recording in the Department of State, the payment of certain filings fees and the custody of certain records, revising parts of the statutory law and making an appropriation therefor.

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

1. R.S. 12:8-15 is amended to read as follows:

Certificate of appointment as pilot.

12:8-15. Certificate of appointment as pilot. The commissioners shall give to every person appointed by them as a branch pilot or deputy pilot, a certificate of appointment signed by a majority of them, or by their chairman, or by their direction, which certificate shall be presented to the Secretary of State.

2. R.S. 12:8-16 is amended to read as follows:

Oath of pilots.

12:8-16. Oath of pilots. Whenever a person shall produce to the Governor, or, in case of his absence from the seat of government, to the Secretary of State, a certificate of appointment from the commissioners, or a majority of them, the Governor or the Secretary of

State, as the case may be, shall administer to such person the following oath:

"I, A.B., do solemnly swear (or affirm), that I will well and faithfully, and according to the best of my skill and knowledge, execute and discharge the business and duty of a branch pilot for the bar, Jersey City, Newark, and Perth Amboy and harbor of Sandy Hook, and that I will at all times use my best endeavors to repair on board all ships and vessels that I shall see and conceive to be bound for, or coming into, or going out of the harbor aforesaid, unless I am well assured that some other licensed pilot is then on board the same; and I do further swear (or affirm), that I will, from time to time and at all times, make the best dispatch in my power to bring safely over the bar at Sandy Hook every vessel committed to my care in coming in or going out; and that I will, from time to time and at all times, truly observe, follow, and fulfill, to the best of my skill, ability, and knowledge, all such orders and directions as I shall or may receive from the commissioners of pilotage, relative to all matters or things that may appertain to the duty of a pilot."

The Secretary of State shall charge a fee of \$25.00 for administering the oath.

3. R.S. 12:8-17 is amended to read as follows:

Bond and license of pilots.

12:8-17. Bond and license of pilots. After a branch pilot or deputy pilot has taken the oath prescribed in section 12:8-16 of this title, the Secretary of State shall direct the commissioners to take bond from him in the sum of \$500.00 with two sufficient sureties to be approved by the commissioners, for the faithful discharge of his duties prescribed in this chapter. Thereupon the commissioners shall deliver to the pilot a license referring to his respective branch. Every license shall be signed by the Secretary of State and be of force during the term therein specified, or during the pilot's good behavior. Every person who shall be appointed a pilot and who shall have taken an oath and given a bond in accordance with this chapter, shall be to all intents and purposes a pilot, agreeably to the certificate of the commissioners.

4. N.J.S. 12A:9-403 is amended to read as follows:

Filing of financing statement.

12A:9-403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitute filing under this chapter.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of 12A:9-405, including payment of the required fee.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) Except as provided in subsection (7), a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the

debtor given in the statement. A financing statement covering collateral which is or is to become a fixture or fixtures, or crops growing or to be grown, shall also be indexed in the name of the record owner of the realty.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement or any amendment of either shall be \$25.00.

(6) A real estate mortgage which is effective as a fixture filing under subsection (6) of 12A:9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of 12A:9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this State provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

5. N.J.S. 12A:9-404 is amended to read as follows:

Termination statement.

12A:9-404. (1) If a financing statement covering consumer goods is filed on or after the effective date of this act, then within one month or within 10 days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by the filing

officer's file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of 12A:9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within 10 days after proper demand therefor he shall be liable to the debtor for \$100.00, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index and attach it to the original financing statement.

If he has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one year after receipt of the termination statement.

(3) The uniform fee for filing, attaching and indexing a termination statement including sending or delivering the financing statement shall be \$25.00.

6. N.J.S. 12A:9-405 is amended to read as follows:

Assignment of security interest.

12A:9-405. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in 12A:9-403(4). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$25.00.

(2) A secured party may assign of record all or a part of his rights under a financing statement by filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file

number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of filing. He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of 12A:9-103, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this State provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$25.00. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of 12A:9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this State other than this act.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

7. N.J.S. 12A:9-406 is amended to read as follows:

Statement of release.

12A:9-406. A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of 12A:9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$25.00.

8. N.J.S. 12A:9-407 is amended to read as follows:

Information from filing officer.

12A:9-407. Information from filing officer.

(1) If the person filing any financing statement, amendment, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the Secretary of State may issue a certificate showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$25.00. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment, or statement of release for a fee as set forth in section 11 of P.L. 1987, c. 435 (C. 22A:4-1a).

9. N.J.S. 14A:15-2 is amended to read as follows:

Filing fees of the Secretary of State.

14A:15-2. Filing fees of the Secretary of State.

On filing any certificate or other papers relative to corporations in the office of the Secretary of State, there shall be paid to the Secretary of State, filing fees as follows:

- (1) Certificate of incorporation and amendments thereto:
 - (a) for filing the original certificate of incorporation \$100.00
 - (b) for filing a certificate of amendment of the certificate of incorporation, including any number of amendments 50.00
 - (c) for filing a certificate of abandonment of one or more amendments of the certificate of incorporation 50.00
 - (d) for filing a certificate of merger or a certificate of consolidation 50.00
 - (e) for filing a certificate of abandonment of a merger or consolidation 50.00
- (2) Restated certificate of incorporation:
 - for filing a restated certificate of

incorporation, including any amendments of the certificate of incorporation concurrently adopted	\$50.00
(3) Dissolution of corporation:	
(a) for filing a certificate of dissolution	50.00
(b) for filing a certificate of revocation of dissolution proceedings	50.00
(4) Admission and withdrawal of foreign corporation:	
(a) for filing an application for a certificate of authority to transact business in this State and issuing a certificate of authority	100.00
(b) for filing an application for an amended certificate of authority to transact business in this State and issuing an amended certificate of authority	50.00
(c) for filing an application for withdrawal from this State and issuing a certificate of withdrawal	50.00
(d) for filing a certificate of change of post-office address to which process may be mailed by the Secretary of State	25.00
(e) for filing a certificate, order or decree with respect to the dissolution of a foreign corporation, the termination of its existence, or the cancellation of its authority, and issuing a certificate of withdrawal	50.00
(5) Registered office and registered agent:	
(a) for filing a certificate of change of address of registered office, or change of registered agent, or both	10.00
(b) for filing a certificate of change of address of registered agent, where such certificate effects a change in the address of the registered office of one or more corporations, for each corporation named in the certificate	10.00
(c) for filing an affidavit of resignation of a registered agent	10.00
(6) Annual report:	
for each such report required to be filed	20.00
(7) Tax clearance certificate from the Director of the Division of Taxation:	
for each such certificate required to be filed	20.00

10. N.J.S. 14A:15-3 is amended to read as follows:

Additional corporate filing fees.

14A:15-3. The Secretary of State shall also charge and collect for:

(1) filing an application to reserve a specified corporate name and issuing a certificate of reservation	\$50.00
if application is for the first name available for corporate use among not more than three specified names	50.00
(2) filing a notice of transfer of a reserved corporate name	25.00
(3) filing an application by a foreign corporation to register its corporate name	50.00
(4) filing an application by a foreign corporation to renew the registration of its corporate name	50.00
(5) filing a statement of cancellation of shares	50.00
(6) filing a statement of reduction of stated capital	50.00
(7) filing a certificate as to the acquisition of the shares or a class of shares of a domestic corporation	50.00
(8) issuing a certificate of standing, including registered agent and registered office	25.00
(9) issuing a certificate of standing, same as above, but including incorporators, officers and directors, and authorized shares	25.00
(10) issuing a certificate of standing, listing charter documents	25.00
(11) issuing a certificate of availability of corporate name (one to three names)	25.00
(12) filing a certificate of registration of fictitious name	50.00
(13) filing a certificate of renewal of registration of fictitious name	25.00
(14) filing a certificate of correction, in addition to any applicable license fee	10.00
(15) filing and issuing a reinstatement of charter	50.00
(16) corporate status reports—per name	5.00

- (17) accepting service of process against a corporation pursuant to N.J.S. 2A:15-26 et seq. \$25.00

C. 22A:4-1a Fees for miscellaneous documents.

11. (New section) For services herein enumerated the Secretary of State shall collect the following fees:

a. For issuing any certificate or filing any document for which no other fee is fixed by statute or regulation, \$25.00, except that the provisions of this subsection shall not apply to:

- (1) certificates of appointments for gubernatorial appointees;
- (2) documents filed by public bodies under the "Open Public Meetings Act," P.L. 1975, c. 231 (C. 10:4-6 et seq.);
- (3) financial disclosures filed by State officials;
- (4) oaths of office;
- (5) resignation of office holders;
- (6) documents filed by other State government entities indexed in the department's miscellaneous file.

b. For certification or exemplification of any document on file, \$25.00.

c. For certification or exemplification of any signature on file, including the issuance of a certificate for proving a document outside the United States, also known as an apostille, \$25.00.

d. For filing a certified copy of an order of change of name, \$50.00.

e. For a paper copy of any document on file, \$1.00 per page. If a roll of microfilm images is requested, the Secretary of State shall collect a fee of \$1.00 for each image on the microfilm roll. If a microfiche copy of a microfiche is requested, \$3.00.

f. For filing a proof of publication, \$10.00.

12. N.J.S. 15A:15-1 is amended to read as follows:

Filing fees of the Secretary of State.

15A:15-1. Filing Fees of the Secretary of State.

On filing any certificate or other papers relative to corporations in the office of the Secretary of State, there shall be paid to the Secretary of State filing fees as follows:

a. Certificate of incorporation and amendments thereto:	
(1) for filing the original certificate of incorporation	\$50.00
(2) for filing a certificate of amendment of the certificate of incorporation including any number of amendments	50.00
(3) for filing a certificate of abandonment of one or more amendments of the certificate of incorporation	50.00
(4) for filing a certificate of merger or a certificate of consolidation	50.00
(5) for filing a certificate of abandonment of a merger or consolidation	50.00
b. Restated certificate of incorporation:	
for filing a restated certificate of incorporation including any amendments of the certificate of incorporation concurrently adopted	50.00
c. Dissolution of corporation:	
(1) for filing a certificate of dissolution	50.00
(2) for filing a certificate of revocation of dissolution proceedings	50.00
d. Admission and withdrawal of foreign corporation:	
(1) for filing an application for a certificate of authority to conduct activities in this State and issuing a certificate of authority	100.00
(2) for filing an application for an amended certificate of authority to conduct activities in this State and issuing an amended certificate of authority	50.00
(3) for filing an application for withdrawal from this State and issuing a certificate of withdrawal	50.00
(4) for filing a certificate of change of post office address to which process may be mailed by the Secretary of State	25.00
(5) for filing a certificate, order or decree with respect to the dissolution of a foreign corporation, the termination of its existence, or the cancellation of its authority, and issuing a certificate of withdrawal	50.00

- e. Registered office and registered agent:
 - (1) for filing a certificate of change of address of registered office, or change of registered agent or both \$10.00
 - (2) for filing a certificate of change of address of registered agent where such certificate effects a change in the address of the registered office of one or more corporations, for each corporation named in the certificate 10.00
 - (3) for filing an affidavit of resignation of a registered agent 10.00
- f. Annual report:
 - for each such report required to be filed 15.00

13. N.J.S. 15A:15-2 is amended to read as follows:

Additional miscellaneous fees.

15A:15-2. Additional Miscellaneous Fees.

The Secretary of State shall also charge and collect for:

- a. filing an application to reserve a specified corporate name and issuing a certificate of reservation \$50.00
 - (1) if application is for first name available for corporate use among not more than three specified names 50.00
- b. filing a notice of transfer of a reserved corporate name 50.00
- c. filing an application by a foreign corporation to register its corporate name 50.00
- d. filing an application by a foreign corporation to renew the registration of its corporate name 50.00
- e. issuing a certificate of standing, including registered agent and registered office 25.00
- f. issuing a certificate of standing, same as above, but including incorporators, officers and trustees 25.00
- g. issuing a certificate of standing, listing charter documents 25.00
- h. issuing a certificate of availability of corporate name (1 to 3 names) 25.00

- i. filing a certificate of registration of alternate name \$50.00
- j. filing a certificate of renewal of registration of alternate name 50.00
- k. filing a certificate of correction 50.00
- l. corporate status reports—per name 5.00

14. Section 65 of P.L. 1983, c. 489 (C. 42:2A-68) is amended to read as follows:

C. 42:2A-68 Filing fees of the Secretary of State.

65. Filing fees of the Secretary of State. On filing any certificate or other papers relative to limited partnerships in the Office of the Secretary of State, there shall be paid to the Secretary of State, filing fees, in addition to any applicable recording fees:

- a. filing an application to reserve a specified limited partnership name and issuing a certificate of reservation \$50.00
 - if application is for the first name available for limited partnership use among not more than three specified names 50.00
- b. filing a notice of transfer of a reserved limited partnership name 50.00
- c. filing original certificate of limited partnership 100.00
- d. filing a certificate of amendment to the certificate of limited partnership, including any number of amendments 50.00
- e. filing certificate of cancellation 50.00
- f. filing order or judgment amending certificate of limited partnership or cancellation 50.00
- g. filing application by a foreign limited partnership to transact business in this State and issuing a certificate of authority 100.00
- h. filing application by a foreign limited partnership for amended certificate to transact business in this State and issuing an amended certificate of authority 50.00
- i. filing annual report 20.00
- j. filing a certificate of registration of an alternate name 50.00
- k. filing a renewal of registration of alternate name 50.00

- l. limited partnership status reports—
 - per name \$5.00
 - m. filing a change of agent or office, or both 10.00
15. R.S. 48:3-38 is amended to read as follows:

Railway police.

48:3-38. On the application of any railroad, street railway, canal or steamboat company the Governor may appoint such persons as the company may designate to act as policemen for the company. The Secretary of State shall issue to each person so appointed a commission, a copy of which shall be filed in the office of the Superintendent of State Police. Each appointee shall pay to the Secretary of State a fee of \$25.00 for that commission.

All applications shall, in the first instance, be made to said superintendent. The superintendent shall investigate and determine the character, competency, integrity and fitness of the person or persons designated in the application. Notwithstanding any other provision of law in the case of any railroad, street railway, canal or steamboat company, the operations of which extend from this State to any other, such person or persons need not be residents of the State of New Jersey. If the application is approved by the superintendent, the applicant shall then present the approved application to the Governor.

Every person so appointed and commissioned shall, in the several counties, possess all the powers of policemen and constables in criminal cases of the several municipalities in such counties and shall be compensated by the company.

When on duty, except when employed as a detective, he shall wear in plain view a metallic shield or device with the words "railway police," "canal police" or "steamboat police" as may be appropriate, and the name or style of the company for whom he was appointed inscribed thereon.

Notwithstanding anything to the contrary herein contained, all appointments made prior to the effective date of this enactment which meet the requirements thereof shall be and they hereby are declared to be valid.

When any such company shall file in the office of the Superintendent of State Police a notice that it no longer requires the service of such policeman, his power as such shall cease and determine.

16. R.S. 52:16-10 is amended to read as follows:

Fees to State Treasurer.

52:16-10. The Secretary of State shall not be entitled to, or take, receive or retain, except for the use of the State, any compensation, pay, fee or emolument whatsoever, other than his annual salary, for any act or service performed or thing done or furnished by the Secretary of State in any official capacity, or under any law of this State. The gross amount of all moneys received by the secretary in any capacity for the use of the State shall be paid to the State Treasurer, except as is otherwise provided in this 1987 amendatory and supplementary act.

C. 52:16-10.1 Secretary of State Fund.

17. (New section) There is created a revolving fund in the General Treasury, to be administered by the Secretary of State, to be the depository of all fees received by the Department of State pursuant to N.J.S. 12A:9-403 through N.J.S. 12A:9-407; N.J.S. 14A:15-2 and N.J.S. 14A:15-3; N.J.S. 15A:15-1 and N.J.S. 15A:15-2; section 11 of P.L. 1987, c. 435 (C. 22A:4-1a); section 65 of P.L. 1983, c. 489 (C. 42:2A-68); R.S. 48:3-38; section 2 of P.L. 1979, c. 460 (C. 52:7-11); R.S. 52:16-10; sections 3 through 6 of P.L. 1966, c. 263 (C. 56:3-13.3 through C. 56:3-13.6); and section 5 of P.L. 1971, c. 171 (C. 56:3-13.7a). The fund is to be known as the "Secretary of State Fund." The moneys deposited in the fund are dedicated and pledged solely for the purposes contained in this 1987 amendatory and supplementary act and shall be in addition to any moneys appropriated by the Legislature to the department for the purposes specified in section 19 of this act. When the Administrator of the Office of Telecommunications and Information Systems certifies to the Governor and State Treasurer that the design, construction, purchase and implementation of an automated information system within the Division of Commercial Recording in the Department of State is completed, the Secretary of State Fund shall be terminated and all fees received by the Department of State shall be deposited in the General Fund.

C. 52:16-10.2 Annual appropriation.

18. (New section) Commencing with fiscal year 1988 and in each year thereafter, there shall be appropriated from the Secretary of State Fund to the General Fund an amount equivalent to the lesser of:

- a. \$11,000,000.00; or
- b. the total amount of fees deposited in the Secretary of State Fund during the fiscal year.

C. 52:16-10.3 Additional appropriations.

19. (New section) There shall be appropriated from the Secretary of State Fund to the Department of State in fiscal year 1988 and in each year thereafter, amounts in excess of the amount required to be appropriated pursuant to section 18 of this act, for the following purposes:

- a. designing, constructing, purchasing, maintaining and implementing an automated information system within the Division of Commercial Recording in the Department of State; and
- b. establishing a centralized filing office for farm product liens as provided in the Federal Food Security Act and any federal regulations adopted pursuant to that act.

C. 52:16-10.4 Joint committee.

20. (New section) The Judiciary committees of the Senate and General Assembly, or their respective successors, are constituted a joint committee for the purposes of monitoring and evaluating whether the implementation of purposes set forth in section 19 of this act are being conducted in a timely fashion and pursuant to the parameters and schedules set forth in the modernization schedule developed for the Division of Commercial Recording. The joint committee shall also review the expenditures made from the fund established pursuant to section 17 of this act to verify that expenditures made from moneys appropriated from the fund are consistent with the purposes set forth in section 19 of this act.

The joint committee shall report its findings annually to the Legislature.

21. Section 2 of P.L. 1979, c. 460 (C. 52:7-11) is amended to read as follows:

C. 52:7-11 Notaries public.

2. a. The Secretary of State shall appoint so many notaries public as the Secretary of State shall deem necessary to commission, who shall hold their respective offices for the term of five years, but may be removed from office at the pleasure of the Secretary of State.

b. A person desiring to be appointed and commissioned a notary public shall make application to the Secretary of State on a form prescribed by the Secretary of State and endorsed by a member of the Legislature or the Secretary of State or Assistant Secretary of State. Renewals thereof shall be made in the same manner as the original application.

c. The fee to be collected by the Secretary of State for that appointment or renewal shall be \$25.00.

22. Section 3 of P.L. 1966, c. 263 (C. 56:3-13.3) is amended to read as follows:

C. 56:3-13.3 Application for registration.

3. Application for registration.

Subject to the limitations set forth in this act, any person who adopts and uses a mark in this State may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) the name and business address of the person applying for such registration; and, if a corporation the state of incorporation;

(b) the goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods or services and the class in which such goods or services fall;

(c) the date when the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business; and

(d) a statement that the applicant is the owner of the mark and that no other person has the right to use such mark in this State either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application shall be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a specimen or facsimile of such mark in triplicate.

The application for registration shall be accompanied by a filing fee of \$50.00 payable to the Secretary of State.

23. Section 4 of P.L. 1966, c. 263 (C. 56:3-13.4) is amended to read as follows:

C. 56:3-13.4 Certificate of registration.

4. Certificate of registration.

Upon compliance by the applicant with the requirements of this act, the Secretary of State shall cause a certificate of registration to

be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary of State and the Seal of the State, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State, the class of goods or services and a description of the goods or services on which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

A certified copy of said certificate of registration may be obtained from the Secretary of State upon the payment of a fee of \$25.00.

Any certificate of registration issued by the Secretary of State under the provisions hereof or a copy thereof duly certified by the Secretary of State shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any action or judicial proceedings in any court of this State.

24. Section 5 of P.L. 1966, c. 263 (C. 56:3-13.5) is amended to read as follows:

C. 56:3-13.5 Duration and renewal.

5. Duration and renewal.

Registration of a mark hereunder shall be effective for a term of 10 years from the date of registration and, upon application filed within six months prior to the expiration of such term, on a form to be furnished by the Secretary of State, which includes a statement that the mark is still in use in this State, the registration may be renewed for a like term. A renewal fee of \$50.00, payable to the Secretary of State, shall accompany the application for renewal of the registration.

A mark registration may be renewed for successive periods of 10 years in like manner.

The Secretary of State shall notify registrants of marks hereunder of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration, by writing to the last known address of the registrants.

Any registration in force on the date on which this act shall become effective shall expire 10 years from the date of the registration or of the last renewal thereof or one year after the effective date of this act, whichever is later, and may be renewed by filing an application with the Secretary of State on a form furnished by him and paying

the aforementioned renewal fee therefor within six months prior to the expiration of the registration.

The Secretary of State shall within six months after the effective date of this act notify all registrants of marks under previous acts of the date of expiration of such registrations unless renewed in accordance with the provisions of this act, by writing to the last known address of the registrants.

25. Section 6 of P.L. 1966, c. 263 (C. 56:3-13.6) is amended to read as follows:

C. 56:3-13.6 Assignment.

6. Assignment.

Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of \$25.00, payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this act shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary of State within three months after the date thereof or prior to such subsequent purchase.

26. Section 5 of P.L. 1971, c. 171 (C. 56:3-13.7a) is amended to read as follows:

C. 56:3-13.7a Certificate of availability.

5. Upon request of any person, the Secretary of State shall issue upon the payment of a fee of \$25.00 a certificate of availability of a mark (one to three marks).

Repealer.

27. N.J.S. 14A:15-1 and N.J.S. 22A:4-1 are repealed.

28. There is appropriated to the Department of State \$2,000,000.00 from the General Fund for the purposes specified in section 19 of this act.

29. Sections 16, 17, 18, 19 and 28 shall take effect immediately and the remainder of this act shall take effect on the 90th day after enactment.

Approved January 15, 1988.

CHAPTER 436

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

54 DEPARTMENT OF HUMAN SERVICES

50 Economic Planning, Development and Security

53 Economic Assistance and Security

7570 Division of Youth and Family Services

18-7570 General Social Services \$50,000

Grant:

Mercy Center, Inc. of Asbury Park . (\$50,000)

2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 437

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, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L. 1987, c. 154).

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. 1987, c. 154, there is appropriated from the General Fund the following sum for the purpose specified:

CAPITAL CONSTRUCTION

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

45 Recreational Resource Management

Capital Project:

New Jersey Fire Engine and
Equipment Museum (\$2,000,000)

No moneys appropriated herein shall be expended by the department until such time as the Commissioner of the Department of Environmental Protection certifies to the Director of the Division of Budget and Accounting that the New Jersey Fire Engine and Equipment Museum at Allaire, Inc. has demonstrated to the commissioner, through commitments and other means, the ability to generate sufficient nonpublic funds for the operational expenses of the museum.

2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 438

AN ACT creating the position of vice-chairman of the Tidelands Resource Council and amending P.L. 1948, c. 448.

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

1. Section 10 of P.L. 1948, c. 448 (C. 13:1B-10) is amended to read as follows:

C. 13:1B-10 Tidelands Resource Council.

10. There shall be within the Department of Environmental Protection, a Tidelands Resource Council which shall consist of 12 members. Each member of the council shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and shall serve until his successor has been appointed and has qualified, except that of the first appointments hereunder, three shall be for a term of one year, three for two years, three for three years and three for four years.

Each Governor shall designate one of the members of the council as chairman and one of the members as vice-chairman of such council. Any member of the council so designated shall serve as such

chairman or vice-chairman at the pleasure of the Governor designating him and until his successor has been designated. The chairman of the council shall be its presiding officer and the vice-chairman shall act as chairman in the chairman's absence.

Any vacancies in the membership of said council occurring other than by expiration of term shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term only. Any member of the council may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 439

AN ACT to amend "An act to provide State aid to certain municipalities for the purpose of enabling such municipalities to maintain and upgrade municipal services and to offset local property taxes," approved March 30, 1978 (P.L. 1978, c. 14) and making an appropriation therefor.

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

1. Section 1 of P.L. 1978, c. 14 (C. 52:27D-178) is amended to read as follows:

C. 52:27D-178 Definitions.

1. For the purposes of this act, unless the context clearly indicates otherwise:

"Base year" means the second year preceding the annual apportionment of State aid pursuant to this act.

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

"Net valuation taxable" means the total value of property on which the general tax rate is computed as expressed in column 6 of the Table of Aggregates pursuant to R.S. 54:4-52 for the base year.

“Equalization ratio” means the ratio of assessed value to true value of real property as published in the Certification of Table of Equalized Valuations by the Director of the Division of Taxation for the base year pursuant to P.L. 1954, c. 86, s. 1 (C. 54:1-35.1).

“Equalized valuation” means net valuation taxable divided by the equalization ratio.

“Municipal equalized valuation per capita” means a municipality’s equalized valuation divided by the population of the municipality.

“State equalized valuation per capita” means the sum of the equalized valuations of all the municipalities of the State divided by the population of the State.

“General tax rate” means the tax rate for local taxing purposes as defined in R.S. 54:4-52 and as expressed in column 7 of the Table of Aggregates for the base year.

“Equalized tax rate” means the general tax rate multiplied by the equalization ratio.

“State equalized tax rate” means the sum of the total levies on which the tax rates for all the municipalities of the State are computed divided by the sum of the equalized valuations of all the municipalities of the State for the base year.

“Population” means the official population count of the State of New Jersey for the base year as reported by the New Jersey Department of Labor, Office of Demographic and Economic Analysis.

“Ratio H” means the proportion that residential and apartment assessed valuation bears to the total assessed valuation of the real property of a municipality, as calculated by the Division of Taxation in the Treasury Department.

“Publicly financed housing” means any dwelling unit constructed and operated under any of the following Federal and State housing programs:

(a) Any dwelling unit constructed under grants or mortgage financing of the New Jersey Housing Finance Agency.

(b) Any dwelling unit constructed under the following sections of the National Housing Act (Public Law 73-479) as amended and supplemented: section 221(d)(3) as added to by the Housing Act of 1961 (P.L. 87-70) and as subsequently amended; section 236 as added

to by the Housing and Urban Development Act of 1968 (P.L. 90-448) and as subsequently amended; section 202, Housing Act of 1959 (P.L. 86-372) and as subsequently amended; section 221-H, as added by the Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 89-754) and as subsequently amended.

(c) Any dwelling unit constructed or operated under the United States Housing Act of 1937 (Public Law 75-412) and as subsequently added to and amended.

“ADC children” means the number of children between the ages of five and 17 years in the municipality enrolled in the Aid to Dependent Children Program, as made available by the Division of Public Welfare in the Department of Human Services for the base year in the publication “State of New Jersey, ADC Data Needed to Implement Public Law 89-10, the Elementary and Secondary Education Act of 1965,” provided, however that the director shall use the best available data comparable to the data provided for the allocation of funds in 1975 pursuant to P.L. 1975, c. 68.

“Qualifying municipality” means a municipality in which:

The number of ADC children exceeds 250, except when the municipality’s population exceeds 20,000 with a density exceeding 7,000 per square mile and the municipality’s equalized valuation per capita is less than the State equalized valuation per capita by \$4,500.00 or more, and

There exists, in the case of a municipality with a population exceeding 15,000, publicly financed housing, and

The municipality’s equalized tax rate exceeds the State equalized tax rate, or the municipality’s equalized valuation per capita is less than the State equalized valuation per capita by \$2,000.00 or more and its population exceeds 25,000, and

The municipality’s equalized valuation per capita is less than the State equalized valuation per capita or the municipality’s equalized tax rate exceeds the State equalized tax rate by \$0.75 or more.

“Distribution factor” means for each qualifying municipality the following:

$$DF = 0.6 \left(\frac{W}{\sum W} \right) + 0.4 \left(\frac{T}{\sum T} \right)$$

where, DF equals the Distribution Factor

W equals ADC children in the municipality

T equals $P (V_s - V_m) (R_m - R_s) Z$

For the purposes of computing the distribution factor, when T has a negative value, it shall be assigned a value of zero.

P equals Population

V_s equals State Equalized Valuation Per Capita

V_m equals Municipal Equalized Valuation Per Capita

R_m equals Municipal Equalized Tax Rate

R_s equals State Equalized Tax Rate

Z equals Ratio H

2. There is appropriated from the General Fund \$1,096,746.00 to the Department of Community Affairs to effectuate the purposes of this act. The amount of entitlement for municipalities newly qualified pursuant to this amendatory act shall be calculated in a manner consistent with P.L. 1978, c. 14 (C. 52:27D-178 et seq.). The amount of the appropriation remaining after those entitlements are determined shall be applied to provide those newly qualified municipalities with aid pursuant to P.L. 1979, c. 118 (C. 52:27D-118.1 et seq.).

3. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 440

AN ACT concerning Alzheimer's Disease and making an appropriation therefor.

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

C. 26:2M-7 Alzheimer's Disease training.

1. a. The Commissioner of the Department of Health shall establish a training program for health care providers in licensed long-term health care facilities in the specialized care of patients with Alzheimer's Disease. The training program shall include methods to deal with the specific problems encountered in the care of Alzheimer's Disease patients, including communicating with patients and necessary safety measures.

b. The training program shall be made available, on a voluntary basis, to licensed long-term health care facilities which provide treat-

ment and care to Alzheimer's Disease patients. Upon request, the commissioner shall provide the training program at the long-term health care facility.

C. 26:2M-8 Rules, regulations.

2. Pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), the commissioner shall adopt all rules and regulations necessary to effectuate the purposes of this act.

3. There is appropriated \$95,000.00 from the General Fund to the Department of Health to effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 441

AN ACT concerning residency requirements for employees of municipal water works in certain cases.

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

C. 40A:9-1.15 Residency requirement waiver.

1. Any municipal ordinance which requires that employees of a municipal water works be municipal residents shall include a provision which permits the municipality to hire a non-resident if the municipality is unable to hire a qualified resident.

2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 442

AN ACT concerning plumbers, amending and supplementing P.L. 1968, c. 362, amending R.S. 26:3-31, P.L. 1946, c. 21, and repealing sections 12, 13 and 24 of P.L. 1968, c. 362 and P.L. 1946, c. 255.

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

1. Section 2 of P.L. 1968, c. 362 (C. 45:14C-2) is amended to read as follows:

C. 45:14C-2 Definitions.

2. When used in this act,

(a) "Master plumber" means a person licensed pursuant to this amendatory and supplementary act who has the qualifications, training, experience and technical knowledge necessary to properly plan, lay out, install and repair plumbing apparatus and equipment and to supervise others in the performance of such work in accordance with standards, rules and regulations established by the State board;

(b) "State board" means the State Board of Examiners of Master Plumbers established pursuant to section 3 of P.L. 1968, c. 362 (C. 45:14C-3);

(c) "Act" means this act and the rules and regulations adopted under it;

(d) "Bona fide representative" means a licensed master plumber who is the holder of not less than 10% of the issued and outstanding shares of stock in a corporation, or not less than 10% of the capital of a partnership, or not less than 10% of the ownership of any other firm or legal entity engaging in the business of plumbing contracting in the State of New Jersey;

(e) "Apprentice plumber" means any person other than a master plumber or journeyman plumber who as his principal occupation is engaged in learning and assisting in the installation of plumbing;

(f) "Journeyman plumber" means any person other than a master plumber or apprentice plumber who installs, alters, repairs and renovates plumbing in accordance with standards, rules and regulations established by the board and who works under the supervision of a master plumber;

(g) "Plumbing" means the practice, materials and fixtures used in the installation, maintenance, extension, alteration, repair and removal of all piping, plumbing fixtures, plumbing appliances and plumbing apparatus in connection with any of the following: sanitary drainage, storm facilities and building sewers to their respective final connection to an approved point of disposal, venting systems, public and private water supply systems of any premises to and within the property line of any building, structure or conveyance to their final connection with an approved supply system. Plumbing shall also mean the practice and materials used in the installation,

maintenance, extension, alteration, repair or removal of storm water, refrigeration and air conditioning drains, liquid waste or sewage;

(h) "Plumbing contractor" means any licensed master plumber, firm, partnership, corporation or other legal entity which undertakes or offers to undertake for another the planning, laying out, supervising, installing or making of additions, alterations and repairs in the installation of plumbing. In order to act as "a plumbing contractor," a licensed master plumber shall be the holder of not less than 10% of the issued and outstanding shares of stock in the corporation, or not less than 10% of the capital of the partnership, or not less than 10% of the ownership of any other firm or legal entity engaging in the business of plumbing contracting in the State and shall employ either journeymen plumbers or apprentice plumbers or both.

2. Section 14 of P.L. 1968, c. 362 (C. 45:14C-14) is amended to read as follows:

C. 45:14C-14 Municipal inspection power.

14. This act shall not deny to any municipality the power to inspect plumbing work or plumbing equipment or the power to regulate the standards and manner in which plumbing work shall be done, but no municipality, local board of health or other agency shall require any master plumber licensed under this act or any master plumber or plumbing contractor authorized to engage in the business of plumbing contracting under this act to obtain any additional license, apply for or take any examination or pay any licensing fee.

3. Section 15 of P.L. 1968, c. 362 (C. 45:14C-15) is amended to read as follows:

C. 45:14C-15 Qualifications.

15. Not less than 30 days and no more than 60 days prior to the date set for the examination for a master plumber's State license, every person, except as herein provided, desiring to apply for a State license, who shall meet the qualifications as set forth herein, shall deliver to the State board, personally or by certified mail, return receipt requested, postage prepaid, a certified check or money order payable to the Treasurer of the State of New Jersey in the required amount as set forth herein, together with such written application as shall be required by the State board, completed as therein described, and together with proof of qualifications as described hereunder.

The qualifications which shall be met and satisfied shall be as follows: The person shall be 21 or more years of age and shall

have been engaged or employed in the plumbing industry for a period of five years next preceding the date of his application for a State license. Three or more of the five years shall have been spent while engaged or employed as a journeyman plumber. In lieu of the above requirements a person shall have been awarded a bachelor's degree in mechanical, plumbing or sanitary engineering from an accredited college or university in the United States which the board finds acceptable and in addition shall have been engaged or employed in the practical work of installing plumbing systems for one year as an apprentice or journeyman plumber.

Proof of compliance with such qualifications or those in lieu thereof shall be submitted to the State board in writing, sworn to by the applicant, and such written proof shall be accompanied by two recent photographs of the applicant.

4. R.S. 26:3-31 is amended to read as follows:

Public health regulations.

26:3-31. The local board of health shall have power to pass, alter or amend ordinances and make rules and regulations in regard to the public health within its jurisdiction, for the following purposes:

a. To protect the public water supply and prevent the pollution of any stream of water or well, the water of which is used for domestic purposes, and to prevent the use of or to close any well, the water of which is polluted or detrimental to the public health.

b. (1) To prohibit the cutting, sale or delivery of ice in any municipality without obtaining a permit from the local board. No person shall cut, sell or deliver ice in any municipality without obtaining such permit.

(2) To refuse such permit or revoke any permit granted by it when in its judgment the use of any ice cut, sold or delivered under the permit would be detrimental to the public health. Upon the refusal or revocation of a permit by the local board, an appeal may be taken to the State department. Upon order of the State department a permit shall be granted or the revocation set aside.

(3) To prohibit the importation, distribution or sale of any impure ice which would be detrimental to the public health.

c. To license and regulate the sanitary conditions of hotels, restaurants, cafes, and other public eating houses and to provide for the posting of ratings or score cards setting forth the sanitary condition of any public eating house after inspection of the same and

to post the rating or score card in some conspicuous or public place in such eating house.

d. To compel any owner of property along the line of any sewer to connect his house or other building therewith. This paragraph shall be enforced by the local board within its jurisdiction and it shall by ordinance provide a fine of \$25.00 to be imposed upon any person who shall not comply with any order issued under the authority of this paragraph, within 30 days after notice by the proper officer of the board to make the required connections. An additional fine of \$10.00 shall be provided for each day of delay, after the expiration of the 30 days, in which the provisions of the order or notice are not complied with. Such notice may be served upon the owner personally or by leaving it at his usual place of abode with a member of his family above the age of 18 years.

e. (Deleted by amendment, P.L. 1987, c. 442.)

f. To regulate, control, and prohibit the accumulation of offal and any decaying or vegetable substance.

g. (1) To regulate the location, construction, maintenance, method of emptying or cleaning, and the frequency of cleaning of any privy or other place used for the reception or storage of human excrement, and to prohibit the construction or maintenance of any privy or other such place until a license therefor shall have been issued by the board, which license shall continue in force for one year from the date of issue.

(2) To fix the fee, not exceeding \$5.00, for such license, and to use the fees so collected in supervising and maintaining said privies or other places and in removing and disposing of the excrement therefrom.

(3) To revoke such license at any time if the owner or tenant of the property on which any privy or other such place is located, maintains the same in violation of law, or of the State sanitary code, or any ordinance or rule of the board.

h. To regulate, control, or prohibit the cleaning of any sewer, the dumping of garbage, the filling of any sunken lot or marsh land, and to provide for the filling up of any such lot or land, which has become filled with stagnant water and is located in any built-up area.

i. (1) To license and regulate the business of cleaning cesspools and privies, which license shall continue for the term of one year from

the date of granting, and to fix the fee that shall be charged for such license, not exceeding \$20.00 for each vehicle or conveyance.

(2) To prohibit unlicensed persons from engaging in such business.

(3) To require any vehicle or conveyance used in such business within its jurisdiction to be approved by it.

(4) To revoke such license if any licensee or his employee or agent shall violate any ordinance or rule of the board in cleaning any cesspool or privy, or in removing the contents thereof.

j. To aid in the enforcement of laws as to the adulteration of all kinds of food and drink, and to prevent the sale or exposure for sale of any meat or vegetable that is unwholesome or unfit for food.

k. To regulate, control, or prohibit the keeping or slaughtering of animals.

l. To license and regulate the keeping of boarding houses for infants and children and to fix a license fee for the same and to prevent unlicensed persons from keeping such boarding houses. This paragraph shall not apply to:

(1) The Division of Youth and Family Services.

(2) Any children's home, orphan asylum, or children's aid society incorporated under the laws of this State.

(3) Any aid society of a properly organized and accredited church or fraternal society organized for aid and relief to its members.

(4) Any charitable society incorporated under the laws of this State having as one of its objects the prevention of cruelty to children or the care and protection of children.

m. To require in buildings, designed to be occupied, or occupied, as residences by more than two families and when the owners have agreed to supply heat, that from October 1 of each year to the next succeeding May 1, every unit of dwelling space and every habitable room therein shall be maintained at least at 68° F. whenever the outside temperature falls below 55° during daytime hours from 6 a.m. to 11 p.m. At times other than those specified interiors of units of dwelling space shall be maintained at least at 55° F. whenever the outside temperature falls below 40°.

In meeting the aforesaid standards, the owner shall not be responsible for heat loss and the consequent drop in the interior temperature

arising out of action by the occupants in leaving windows or doors open to the exterior of the building. The owner shall be obligated to supply required fuel or energy and maintain the heating system in good operating condition so that it can supply heat as required herein notwithstanding any contractual provision seeking to delegate or shift responsibility to the occupant or third person, except that the owner shall not be required to supply fuel or energy for heating purposes to any unit where the occupant thereof agrees in writing to supply heat to his own unit of dwelling space and the said unit is served by its own exclusive heating equipment for which the source of heat can be separately computed and billed.

n. To regulate the practice of midwifery, but the exercise of such authority shall not conflict with the provisions of chapter 10 of Title 45 of the Revised Statutes (§45:10-1 et seq.).

o. To enforce the making of returns or reports to the local board on the part of any person charged with such duty under any law and to take cognizance of any failure to make such returns and deal with the same in an effective manner.

p. To act as the agent for a landlord in the engaging of repairmen and the ordering of any parts necessary to restore to operating condition the furnace, boiler or other equipment essential to the proper heating of any residential unit rented by said landlord, provided, however, that at least 24 hours have elapsed since the tenant has lodged a complaint with the local board of health, prior to which a bona fide attempt has been made by the tenant to notify the landlord of the failure of the heating equipment, and the landlord has failed to take appropriate action, and the outside air temperature is less than 55° F.

Any person who supplies material or services in accordance with this section shall bill the landlord directly and by filing a notice approved by the local board of health, with the county clerk, shall have a lien on the premises where the materials were used or services supplied.

5. Section 1 of P.L. 1946, c. 21 (C. 40:49-5.1) is amended to read as follows:

C. 40:49-5.1 Enactment of code by reference.

1. Any municipality may enact, amend or supplement ordinances, establishing, amending or supplementing rules and regulations affecting the construction, reconstruction or repair of buildings, ordinances for fire prevention and ordinances establishing fire

prevention codes, and health ordinances establishing, amending or supplementing rules and regulations affecting the installation, maintenance, repair and control of the plumbing, ventilation and drainage of buildings and the connection thereof with an outside sewer, cesspool or other receptacle, by reference to such rules and regulations in any such ordinance and without the inclusion of the text thereof therein, if the rules and regulations to be adopted are printed or otherwise reproduced in book form as a code or as a part of a code of such rules and regulations; provided, that a copy of such printed code, so marked as to indicate plainly what portion thereof, if less than the whole, is intended to be adopted, is annexed to such ordinance; that said code or such portion thereof as is intended to be adopted is so described in said ordinance as to identify it and there is indicated in said description the common or trade name, if any, of such code of rules and regulations; and that it is stated in the ordinance that three copies of said code, similarly marked, have been placed on file in the office of the municipal clerk, upon the introduction of said ordinance and will remain on file there until final action is taken on said ordinance, for the use and examination of the public.

C. 45:14C-12.1 Examination waiver.

6. (New section) The State board shall, upon application to it and payment of the prescribed fee, issue a State master plumber's license without examination to any person who held a plumber's license issued by a municipality, local board of health or other agency for at least five years prior to the effective date of this 1987 amendatory and supplementary act and who demonstrates to the board's satisfaction that the experience qualifies the applicant to fulfill the responsibilities of a master plumber. Application pursuant to this section shall be made within six months of the effective date of this amendatory and supplementary act.

C. 45:14C-12.2 Ban on new municipal licenses.

7. (New section) On or after the effective date of this 1987 amendatory and supplementary act, a municipality, local board of health or any other agency shall not issue any plumber's license.

C. 45:14C-12.3 Exclusive licensing procedure.

8. a. (New section) On or after the effective date of this 1987 amendatory and supplementary act, a person shall not work as a master plumber or use the title or designation of master plumber unless licensed pursuant to the provisions of this amendatory and supplementary act.

b. On or after the effective date of this 1987 amendatory and

supplementary act, a person, firm, partnership, corporation or other legal entity shall not engage in the business of plumbing contracting or advertise in any manner as a plumbing contractor or use the title or designation of plumbing contractor unless authorized to act as a plumbing contractor pursuant to the provisions of this amendatory and supplementary act.

C. 45:14C-12.4 Exemption.

9. (New section) The provisions of this amendatory and supplementary act shall not apply to a single family home owner who performs plumbing work on his own dwelling.

Repealer.

10. Sections 12, 13, and 24 of P.L. 1968, c. 362 (C. 45:14C-12, C. 45:14C-13 and C. 45:14C-24) and P.L. 1946, c. 255 (C. 26:3C-1 et seq.) are repealed.

11. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 443

AN ACT concerning certain property tax exemptions and amending
P.L. 1978, c. 93.

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

1. Section 1 of P.L. 1978, c. 93 (C. 40:55C-58.1) is amended to read as follows:

C. 40:55C-58.1 Condominium tax exemption.

1. a. Notwithstanding anything to the contrary contained in P.L. 1961, c. 40 (C. 40:55C-40 et seq.), when an urban renewal corporation or an urban renewal association, being a party to a financial agreement prepared in compliance with sections 20 to 25, inclusive, of said act (C. 40:55C-59 to 40:55C-64), files a master deed pursuant to P.L. 1969, c. 257 (C. 46:8B-1 et seq.) creating a condominium, whether residential or commercial, as to all or a portion of a project which has been approved for tax exemption under section 19 of said act (C. 40:55C-58) and, if appropriate, subsection b. of this section, each unit of the condominium whether owned by the urban renewal corporation, urban renewal association or a successor unit purchaser of

either, shall continue to be subject to the provisions of said act, as modified in this section, and the tax exemption previously approved under the provisions of said act with respect to the property converted to condominium ownership shall be unaffected by the recording of the master deed or any subsequent deed conveying the condominium unit and its appurtenant interest in the common elements. Subject to the provisions and exceptions of subsections b. and c., as appropriate, of this section, in an instance of housing, a tax exemption granted pursuant to this act to any single condominium unit shall continue in effect regardless of whether or not the owner of such unit, including an urban renewal corporation or association, personally resides therein. A tax exemption shall continue as to the condominium unit and its appurtenant undivided interest in the common elements subject to all of the following:

(1) For the purpose of determining the annual service charge pursuant to section 26 of P.L. 1961, c. 40 (C. 40:55C-65) when used with respect to any condominium project, "annual gross revenue" shall mean the amount equal to the annual aggregate constant payments to principal and interest, assuming a purchase money mortgage encumbering the condominium unit to have been in an original amount equal to the initial value of the unit with its appurtenant interest in the common elements as stated in the master deed, if unsold by the urban renewal corporation or association, or, if the unit is held by a unit purchaser, from time to time, the most recent true consideration paid for a deed to the condominium unit in a bona fide arm's length sale transaction, but not less than the initial assessed valuation of the condominium unit assessed at 100% of true value, plus the total amount of common expenses charged to the unit pursuant to the bylaws of the condominium association. The constant payments to principal and interest shall be calculated by assuming a loan amount as aforesaid at the prevailing lawful interest rate for mortgage financing on comparable properties within the municipality as of the date of recording of the unit deed, for a term equal to the full term of the exemption from taxation stipulated in the financial agreement.

(2) There is expressly excluded from calculation of annual gross revenue as defined in section 12 of P.L. 1961, c. 40 (C. 40:55C-51) and from net profit as defined in section 11 of P.L. 1961, c. 40 (C. 40:55C-50) for the purpose of determining compliance with section 27 of P.L. 1961, c. 40 (C. 40:55C-66) any gain realized by the urban renewal corporation or urban renewal association on the sale of any

condominium unit, whether or not taxable under applicable federal or State laws.

(3) The conveyance of a condominium unit which is subject to the provisions of a financial agreement to a bona fide unit purchaser grantee shall not require consent or approval of the municipality, and the grantee shall, by virtue hereof, acquire title to the unit subject to the requirement for payment of the annual service charge and other provisions thereof expressly applicable to condominium unit purchasers under the provisions of said act, and the exemption from taxation as to such condominium unit shall continue unaffected by such transfer, in an instance of housing, subject to the provisions and exceptions of subsections b. and c., as appropriate, of this section, regardless of whether or not the unit owner personally resides therein.

b. Any application approved by resolution pursuant to section 19 of P.L. 1961, c. 40 (C. 40:55C-58) for a tax exemption for residential condominium units shall not take effect until approved by the chief executive officer of the municipality.

c. The governing body of a municipality may, by resolution subject to the provisions of subsection b. of this section, determine to:

(1) Only grant a tax exemption for residential condominium units to those units in which the owners personally reside; or

(2) Increase the annual service charge paid in lieu of taxes by a condominium unit owner who does not reside within the unit owned, by 1% over that permitted pursuant to section 26 of P.L. 1961, c. 40 (C. 40:55C-65).

2. This act shall take effect immediately.

Approved January 15, 1988.

CHAPTER 444

AN ACT concerning the reorganization name of the Department of Defense to the Department of Veterans' Affairs and Defense and continuing it as a principal department in the Executive Branch of State government, revising and repealing parts of the statutory law and making an appropriation therefor.

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

C. 38A:3-1.1 Findings, declarations.

1. (New section) The Legislature finds and declares:

a. Since the establishment of this State more than 200 years ago, New Jersey's veterans have maintained their proud allegiance to the United States and have fought and died to preserve and protect our freedom and way of life;

b. Presently there are approximately 900,000 veterans with service in time of war or conflict residing in New Jersey, including more than 10,000 World War I veterans, 406,000 World War II veterans, 202,000 veterans of the Korean conflict, 203,000 veterans of the Vietnam conflict, 30,000 women veterans, and veterans of the Lebanon and Grenada peacekeeping missions;

c. The Departments of Higher Education, Human Services, Labor, and Treasury provide special services and benefits to these veterans and their dependents;

d. The Department of Human Services, which is the principal government agency that serves this State's veterans, has done an especially commendable job attending to this special group of residents;

e. Yet while 23 states in the United States have a separate cabinet-level Department of Veterans' Affairs, New Jersey lacks an executive department which is concerned primarily with the needs and problems of veterans in this State;

f. It is in the public interest to incorporate various services and programs which pertain specifically to veterans and their dependents into an executive department which can serve their needs more efficiently than is possible at present.

C. 38A:3-1.2 Definitions.

2. (New section) As used in chapter 3 of Title 38A of the New Jersey Statutes:

a. "Department" means the Department of Veterans' Affairs and Defense established pursuant to N.J.S. 38A:3-1 et seq. as amended by this 1987 amendatory and supplementary act;

b. "Veteran" means any person who has served in any branch of the armed forces of the United States for at least 90 days, except that if the term "veteran" is defined differently in any of the statutes

cited by this act or in any federal statute, that definition shall be applicable for the purposes of those statutes.

3. N.J.S. 38A:3-1 is amended to read as follows:

Principal department.

38A:3-1. The Department of Veterans' Affairs and Defense shall be a principal department in the executive branch of the State Government.

4. (New section) The Division of Veterans' Programs and Special Services in the Department of Human Services, established pursuant to section 40 of P.L. 1944, c. 85 (C. 52:27C-40), is abolished and all its functions, powers, duties and employees are transferred to the Department of Veterans' Affairs and Defense.

5. N.J.S. 38A:3-2 is amended to read as follows:

Personnel of department.

38A:3-2. The Department of Veterans' Affairs and Defense shall consist of:

- (a) The Adjutant General;
- (b) The deputy adjutant general;
- (c) The assistant adjutant general, New Jersey Army National Guard;
- (d) The assistant adjutant general, New Jersey Air National Guard;
- (e) Such officers of the organized militia, active or inactive, authorized by the Governor for duty therein;
- (f) Such clerks and employees as may be required, who may be detailed from the organized militia;
- (g) State headquarters for selective service;
- (h) The organized militia;
- (i) The Administrator of Veterans' Affairs;
- (j) The Director of the Division of Veterans' Administrative Services;
- (k) The Director of the Division of Veterans' Loans, Grants and Services; and
- (l) The Director of the Division of Veterans' Training, Information and Referrals.

6. Section 1 of P.L. 1973, c. 284 (C. 38A:3-2.1) is amended to read as follows:

C. 38A:3-2.1 Bureau for Surplus Property transferred.

1. The State Bureau for Surplus Property, in the Division of Purchase and Property, State Department of the Treasury, together with its functions, powers and duties, is hereby transferred to the Division of Civil Defense-Disaster Control in the State Department of Veterans' Affairs and Defense.

7. N.J.S. 38A:3-3 is amended to read as follows:

Adjutant General.

38A:3-3. The head of the Department of Veterans' Affairs and Defense shall be the Adjutant General, who shall be appointed with the grade of major general of the line, New Jersey Army National Guard, or major general, New Jersey Air National Guard, by the Governor, with the advice and consent of the Senate, from:

(a) Federally recognized general officers in the national guard who have served therein for the preceding 10 years; or

(b) Federally recognized commissioned officers in the national guard, who have served therein for the preceding 10 years and are now serving in a military grade not below that of a colonel, such officers having the qualifications to become federally-recognized as brigadier general of the line, New Jersey Army National Guard, or brigadier general, New Jersey Air National Guard.

8. N.J.S. 38A:3-6 is amended to read as follows:

Powers, duties.

38A:3-6. Under the direction of the Governor, the Adjutant General shall:

(a) Exercise control over the affairs of the Department of Veterans' Affairs and Defense and in connection therewith make and issue such regulations governing the work of the Department of Veterans' Affairs and Defense and the conduct of its employees as may, in his judgment, be necessary or desirable.

(b) Be the request officer of the Department of Veterans' Affairs and Defense within the meaning of such term as defined in section 1 of P.L. 1944, c. 112 (C. 52:27B-1).

(c) Supervise, administer, coordinate and command State civil defense and disaster control activities.

(d) Command the organized militia of the State, with responsibility for recruiting, mobilization, administration, training, discipline, equipping, supply and general efficiency thereof. He may issue such regulations and delegate such command functions as he shall deem necessary. The regulations so issued shall, insofar as possible, conform to the federal laws and regulations concerning the same.

(e) Maintain the archives and be the custodian of the records and papers required, by laws or regulations, to be filed with the Department of Veterans' Affairs and Defense.

(f) Supervise, administer and coordinate those activities of the selective service system for which the Governor is responsible.

(g) Acquire by gift, grant, purchase, exchange, eminent domain, or in any other lawful manner, in the name of and for the use of the State of New Jersey, all those parcels of land as shall be necessary for armories and other militia facilities, and supervise the design, construction, alteration, maintenance and repair of said property.

(h) Establish and maintain such headquarters as may be required for the militia.

(i) Exercise the powers vested in him and perform such other duties and functions as required of him by the Governor and by federal and State laws and regulations.

(j) Exercise all of the functions, powers and duties heretofore vested in the Director of the Division on Veterans' Programs and Special Services.

(k) Appoint and remove officers and other personnel employed within the department, subject to the provisions of N.J.S. 38A:3-8 and Title 11A of the New Jersey Statutes and other applicable statutes, except as herein otherwise specifically provided.

(l) Have authority to organize and maintain an administrative division and to assign to employment therein secretarial, clerical and other assistants in the department or the Adjutant General's Office for the purpose of providing centralized support to all segments of the department, including budgeting, personnel administration and oversight of equal opportunity programs.

(m) Perform, exercise and discharge the functions, powers and duties of the department through such divisions as may be established by this act or otherwise by law.

(n) Organize the work of the department in divisions not inconsistent with the provisions of this act and in bureaus and other organizational units as the Adjutant General may determine to be necessary for efficient and effective operation.

(o) Adopt, issue and promulgate, in the name of the department, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), such rules and regulations as may be authorized by law.

(p) Institute, or cause to be instituted, legal proceedings or processes as necessary to properly enforce and give effect to any of the Adjutant General's powers or duties.

(q) Make an annual report to the Governor and to the Legislature of the department's operations, and render other reports as the Governor shall from time to time request or as may be required by law.

(r) Coordinate the activities of the department, and the several divisions and other agencies therein, in a manner designed to eliminate overlapping and duplicative functions.

(s) Integrate within the department, so far as practicable, all staff services of the department and of several divisions and other agencies therein.

(t) Request access to all relevant files and records of other State agencies, which may be made available to the Adjutant General by the head of a State agency, and request, subject to the permission of the head of the State agency, any officer or employee therein to provide information as necessary to assist in the performance of the functions of the department.

(u) Supervise and operate the State veterans' homes and cemeteries.

(v) Supervise and operate the liaison office and the field offices which serve the federal Veterans' Affairs Medical Centers.

(w) Make application for federal grants and programs, other than education grants or funds.

(x) Administer the federally-funded training and rehabilitation programs, except for the administration of federally-funded education and training programs set forth in 38 U.S.C. 36 et seq.

(y) Provide current information to the general public on State and federal veterans' programs and benefits.

9. N.J.S. 38A:3-8 is amended to read as follows:

Classes of personnel.

38A:3-8. The personnel of the Department of Veterans' Affairs and Defense shall consist of the following classes of persons:

(a) Officers and enlisted members who are ordered to active duty on a permanent duty status, with the pay allowances of their grade and length of service in accordance with section 38A:4-3 of this title.

(b) Classified civil service employees.

(c) Unclassified civil service employees, who may be relieved, suspended or discharged for good cause. Such personnel shall be administered as far as practicable under similar regulations as those applicable to classified civil service, but shall be subject to military discipline and control as the Adjutant General deems appropriate, and shall include all personnel employed for the maintenance of armories.

(d) Technicians paid from federal funds. Such personnel shall be appointed by the Adjutant General, who shall determine their salaries and who may relieve, suspend or discharge such persons at any time for good cause, and shall be subject to military discipline and control.

10. N.J.S. 38A:3-11 is amended to read as follows:

Certification of records.

38A:3-11. The Adjutant General shall have an appropriate seal and have affixed an impression of the same to all certificates of record issued from the Department of Veterans' Affairs and Defense. Copies of any books, records, papers and documents, in the Department of Veterans' Affairs and Defense certified by the Adjutant General or other designated officer of the department, under seal of the Department of Veterans' Affairs and Defense shall be admitted as evidence in any court of the State, either civil or military, with the same force and effect as if the original had been produced.

C. 38A:3-4.1 Administrator.

11. (New section) The Administrator of Veterans' Affairs shall be an honorably discharged veteran qualified by training and experience to perform the duties of the office and shall be appointed by the Governor with the advice and consent of the Senate. The administrator shall, under the supervision of the Adjutant General, direct and oversee the activities of the Director of the Division of Veterans' Administrative Services, the Director of the Division of Veterans'

Loans, Grants and Services and the Director of the Division of Veterans' Training, Information and Referrals.

C. 38A:3-6.2 Grants.

12. (New section) The Adjutant General may apply for and accept on behalf of the State any grants from the federal government or any agency thereof, or from any foundation, corporation, association or individual, except for education grants or federal funds for education grants, and may comply with the terms, conditions and limitations thereof, for any purposes of the department. Any money so received may be expended by the department, subject to any limitations imposed in such grants, to effect any of the purposes of the department, as the case may be, upon warrant of the Director of the Division of Budget and Accounting of the Department of the Treasury on vouchers certified and approved by the commissioner. The power herein granted shall be in addition to and shall in no way limit the authority granted to the commissioner by this act or any other existing law.

C. 38A:3-12 Veterans' preference.

13. (New section) The department shall organize and administer a program of voluntary commitments by employers throughout the State to participate in a plan of veterans' preference in private employment and reemployment.

C. 38A:3-13 Quota; disabled veterans.

14. (New section) The plan of veterans' preference in private employment shall provide for the fixing of a quota of veterans by the Adjutant General for all participating employers, but may not require any employed worker to be discharged. The plan shall also provide for the classification of disabled veterans in occupations for which they would not be handicapped, and for first preference in such occupations for such disabled veterans.

C. 38A:3-14 Employment quota preference plan.

15. (New section) In the organization and administration of the employment quota preference plan, the Adjutant General, through appropriate federal, State and local agencies, shall:

- a. Enroll employers who voluntarily commit themselves to the plan and certify the right of such employers to approved forms of public recognition;
- b. Register veterans desiring employment, according to their occupational experience and capacities;
- c. Register labor unions which are willing to participate through

appropriate adjustment of their membership and other requirements, and certify the right of such unions to approved forms of public recognition;

d. Receive requests for workers from all participating employers; and

e. Either refer qualified veterans (with preference to the disabled) in response to such requisitions or certify that veterans are not available.

C. 38A:3-15 Departmental approval.

16. (New section) The department shall review and approve or disapprove all policies and work programs of State departments, agencies and instrumentalities relating to veterans' welfare, services or activities. No such activity or work program shall be undertaken or continued after disapproval by the department without specific authorization from the Governor.

17. The Veterans' Services Council, established pursuant to section 22 of P.L. 1948, c. 448 (C. 13:1B-20), together with all its powers, functions and duties, is continued and transferred to the Department of Veterans' Affairs and Defense. This act shall not affect the terms of office of the present members of the council, except that if there are less than two women members of the council following the enactment of this 1987 amendatory and supplementary act, the Governor shall appoint such members upon the expiration of the terms of two male members.

18. Section 22 of P.L. 1948, c. 448 (C. 13:1B-20) is amended to read as follows:

C. 13:1B-20 Veterans' Services Council.

22. There shall be within the Department of Veterans' Affairs and Defense, a Veterans' Services Council which shall consist of nine members and shall include no less than two women. Each member of the council shall be a veteran, and shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and shall serve until his successor has been appointed and has qualified, except that of the first appointments hereunder, two shall be for a term of one year, two for two years, two for three years, and three for four years. All appointments to the council shall be made in consultation with the leaders of all federally-chartered veterans' organizations in the State.

Each Governor shall designate one of the members of the council as chairman of such council. Any member of the council so designated

shall serve as such chairman at the pleasure of the Governor designating him and until his successor has been designated. The chairman of the council shall be its presiding officer.

Any vacancies in the membership of said council occurring other than by expiration of term shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term only. Any member of the council may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

19. The Veterans' Facilities Council, established pursuant to P.L. 1971, c. 344 (C. 30:6AA-11 et seq.), together with all its powers, functions and duties, is continued and transferred to the Department of Veterans' Affairs and Defense. This act shall not affect the terms of office of the present members of the council.

20. The Blind Veterans' Allowance Program, established pursuant to R.S. 38:18-1 et seq., shall be administered by the Department of Veterans' Affairs and Defense.

21. The Paraplegic and Hemiplegic Veterans' Allowance Program, established pursuant to P.L. 1947, c. 263 (C. 38:18A-1 et seq.), shall be administered by the Department of Veterans' Affairs and Defense.

22. The veterans' loan authority, established pursuant to P.L. 1944, c. 126 (C. 38:23B-1 et seq.), together with all its functions, powers and duties, is continued and transferred to the Department of Veterans' Affairs and Defense.

23. The Vietnam Veterans' Memorial Committee, established pursuant to section 2 of P.L. 1985, c. 494, together with all its powers, functions and duties, is continued and transferred to the Department of Veterans' Affairs and Defense. The act shall not affect the terms of office of the present members of the commission.

24. The New Jersey Veterans' Cemetery at Arneytown, built in part by funds appropriated pursuant to P.L. 1985, c. 149, shall be administered by the Department of Veterans' Affairs and Defense.

25. The Vietnam Veterans' Outreach Program, first funded by State moneys during fiscal year 1984 pursuant to P.L. 1983, c. 240,

shall be administered by the Department of Veterans' Affairs and Defense.

26. The Agent Orange Commission, established pursuant to P.L. 1979, c. 443, together with its powers, functions and duties, is continued and transferred to the Department of Veterans' Affairs and Defense. This act shall not affect the goals of the commission or the terms of office of its members.

27. Section 3 of P.L. 1979, c. 443 is amended to read as follows:

3. There is established in the Department of Veterans' Affairs and Defense an Agent Orange Commission which shall be composed of nine members to be appointed by the Governor of whom at least four shall be Vietnam era veterans. The members of the commission shall serve without compensation but shall be entitled to reimbursement by the commission for expenses necessarily incurred in the performance of their duties. The commission shall employ an executive director and such clerical support as is necessary to effectuate the purposes of this act.

28. Section 5 of P.L. 1979, c. 443 is amended to read as follows:

5. The Division of Veterans' Loans, Grants and Services in the Department of Veterans' Affairs and Defense shall render all assistance requested by the commission to effectuate the purposes of this act.

C. 38A:3-2a Divisions established.

29. (New section) There is established in the department a Division of Veterans' Administrative Services, a Division of Veterans' Loans, Grants and Services, and a Division of Veterans' Training, Information and Referrals.

C. 38A:3-2b Division of Administrative Services.

30. (New section) The Division of Veterans' Administrative Services shall:

- a. Supervise and operate the State Veterans' Homes at Menlo Park, Vineland and Paramus; and
- b. Supervise and operate the New Jersey Veterans' Cemetery at Arneytown.

C. 38A:3-2c Administrative services director.

31. (New section) The Division of Veterans' Administrative Services shall be under the immediate supervision of a director who shall be an honorably discharged veteran qualified by training and ex-

perience to direct the work of the division. The director shall be appointed by the Adjutant General, with the approval of the Governor, and shall serve at the pleasure of the Adjutant General.

C. 38A:3-2d Division of Loans, Grants and Services.

32. (New section) The Division of Veterans' Loans, Grants and Services shall:

- a. Administer the Blind Veterans' Allowance Program;
- b. Administer the Paraplegic and Hemiplegic Allowance Program;
- c. Maintain a continuous liaison with the Association of Blind Veterans and other similar State and national veterans' associations and organizations;
- d. Provide all necessary assistance to the Agent Orange Commission upon request;
- e. Administer the veterans' loan authority;
- f. Supervise and operate the liaison and field offices which serve the federal Veterans' Administration Centers at Lyons and East Orange; and
- g. Compete for all grants, private and federal, other than education grants, that would fund programs to benefit the State's veterans and their dependents.

C. 38A:3-2e Loans, grants, services director.

33. (New section) The Division of Veterans' Loans, Grants and Services shall be under the immediate supervision of a director who shall be an honorably discharged veteran qualified by training and experience to direct the work of the division. The director shall be appointed by the Adjutant General, with the approval of the Governor, and shall serve at the pleasure of the Adjutant General.

C. 38A:3-2f Division of Training, Information and Referrals.

34. (New section) The Division of Veterans' Training, Information and Referrals shall:

- a. Administer the operations of the Vietnam Veterans' Outreach Program;
- b. Administer all federal and State training and rehabilitation programs not administered by other State departments;
- c. Provide current information to the general public on federal and State veterans' programs and benefits; and

d. Provide a continuous liaison between the department and the Department of Education and the Department of Higher Education to insure that veterans or their dependents seeking to apply for educational programs for veterans or their dependents are referred to the appropriate State office and provided with the information, forms and assistance necessary to apply for those programs.

C. 38A:3-2g Training, information, referrals director.

35. (New section) The Division of Veterans' Training, Information and Referrals shall be under the immediate supervision of a director who shall be an honorably discharged veteran qualified by training and experience to direct the work of the division. The director shall be appointed by the Adjutant General, with the approval of the Governor, and shall serve at the pleasure of the Adjutant General.

C. 38A:3-2h Salaries.

36. (New section) Each director shall receive such salary as may be established by the Adjutant General with the approval of the Commissioner of Personnel and the Director of the Division of Budget and Accounting.

C. 38A:3-2i Retention of civil service rights.

37. (New section) In the event that a director is appointed from persons holding positions in the career service of the State, the director shall retain, during his or her tenure in such position, any rights or protection provided that person by Title 11A, Civil Service, of the New Jersey Statutes or any pension law or retirement system.

Repealer.

38. Sections 40 through 46 of P.L. 1944, c. 85 (C. 52:27C-40 through 54:27C-46) are repealed.

39. The transfers directed by this act, except as otherwise provided herein, shall be made in accordance with the "State Agency Transfer Act," P.L. 1971, c. 375 (C. 52:14D-1 et seq.).

40. In addition to the funds transferred to the department by this act, there is appropriated the sum of \$1,000,000.00, or as much thereof as may be necessary, from the General Fund to be allocated for the implementation of this act.

41. This act shall take effect immediately.

Approved January 16, 1988.

CHAPTER 445

AN ACT concerning regular route in the nature of special bus operations and amending R.S. 48:4-1, P.L. 1973, c. 158, P.L. 1983, c. 517, R.S. 39:3-19, R.S. 54:39-66 and P.L. 1963, c. 44.

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

1. R.S. 48:4-1 is amended to read as follows:

Scope of chapter; exclusions.

48:4-1. The term "autobus" as used in this chapter means and includes, except as hereinafter noted, any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, whether used in regular route, casino, charter or special bus operations, notwithstanding such motor vehicle or motorbus may be used in interstate commerce.

The term "ridesharing" as used in this chapter means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as carpools and vanpools.

Nothing contained herein shall be construed to include:

- a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;
- b. Hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airports;
- c. Buses operated for the transportation of enrolled children and adults only when serving as chaperones to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, pre-school center or other similar places of education, including "School Vehicle Type I" and "School Vehicle Type II" as defined in R.S. 39:1-1;
- d. Any autobus with a carrying capacity of not more than 13 passengers operated under municipal consent upon a route estab-

lished wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route;

e. Autocabs, limousines or livery services as defined in R.S. 48:16-13, unless such service becomes or is held out to be regular service between stated termini;

f. Any vehicle used in a "ridesharing" arrangement, as defined by the "New Jersey Ridesharing Act of 1981" (P.L. 1981, c. 413).

The word "person" as used in this chapter means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court.

The word "street" as used in this chapter means and includes any street, avenue, park, parkway, highway, road or other public place.

The term "regular route bus operation" as used in this chapter means and includes the operation of an autobus between fixed termini, on a regular schedule and with provision for convenient one-way transportation in either direction, and shall also include all existing regular route operations to or from any casino licensed under the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.), unless that operation to or from casinos has been determined by the Commissioner of Transportation to be other than a regular route operation.

The term "regular route in the nature of special bus operation" or "casino bus operation" as used in this chapter means and includes the operation of an autobus to or from any casino licensed under the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.), unless that operation has been determined by the Commissioner of Transportation to be a regular route bus operation.

The term "charter bus operation" as used in this chapter means and includes the operation of an autobus or autobuses, not on a regular schedule, by the person owning or leasing such bus or buses pursuant to a contract, agreement or arrangement to furnish an autobus or autobuses and a driver or drivers thereof to a person, group of persons or organization (corporate or otherwise) for a trip desig-

nated by such person, group of persons or organization for a fixed charge per trip, per autobus, per period of time or per mile.

The term "special bus operation" as used in this chapter means and includes the operation by the owner or lessee of an autobus or autobuses for the purpose of carrying passengers for hire, not on a regular schedule, each passenger paying a fixed charge for his carriage, on a special trip arranged and designated by such owner or lessee, which fixed charge may or may not include special premiums.

The term "special premiums" as used in this chapter means the provision of meals, gifts, lodging, entertainment, sightseeing services or other similar inducements in connection with the purchase or issuing of a ticket. No casino bonuses shall be included in this definition.

2. Section 10 of P.L. 1973, c. 158 (C. 48:4-3.1) is amended to read as follows:

C. 48:4-3.1 Conditions permitted.

10. Nothing in this act shall preclude the Commissioner of Transportation from limiting certificates of public convenience and necessity by imposing conditions as to the area of operation, route of operation, expiration of the certificate, equipment, maintenance, service or such other condition as public convenience and necessity may reasonably require or permit, or for providing, with respect to regular route bus operations, for any special provisions relating to the issuance of certificates of public convenience and necessity, and petitions and proceedings concerning the issuance of those certificates, as public convenience and necessity may reasonably require or permit.

3. Section 6 of P.L. 1983, c. 517 (C. 48:4-2.25) is amended to read as follows:

C. 48:4-2.25 Casino, charter, special bus operations.

6. The provisions of this act shall apply to the rates, fares and charges of autobuses for casino bus operations, charter bus operations and special bus operations in the same manner as they apply to the rates, fares and charges of autobuses for regular route service except that:

- a. The commissioner may establish a different "zone of rate freedom" for casino, charter and special bus operations relying on the special features of this sector of the bus industry;
- b. Public notice regarding the rates, fares, and charges for casino,

charter and special bus operations pursuant to section 4 of this act shall only be required to be posted in all bus terminals served by the autobus offering casino, charter or special services at least 10 days prior to the effective date of the adjusted rates, fares, or charges;

c. Upon petition or upon his own motion, the commissioner may exempt casino, charter or special rates, fares and charges of any owner or operator of an autobus offering casino, charter or special bus operations, or rates, fares and charges of any portion of these operations, from regulation under Title 48 of the Revised Statutes if, in his opinion, there are circumstances prevalent with respect to those operations, or any portion thereof, which will be consistent with the interests of the consumers or users of casino, charter or special bus services;

d. Upon petition or upon his own motion, the commissioner may exempt casino, charter and special rates, fares and charges of all owners or operators of autobuses offering casino, charter or special bus operations from regulation under Title 48 of the Revised Statutes if, in his opinion, there are circumstances prevalent with respect to the casino, charter and special bus sector of the bus industry, which will be consistent with the interests of the consumers or users of casino, charter and special bus services; and

e. The commissioner may reimpose regulation under Title 48 of the Revised Statutes of casino, charter or special rates, fares and charges of owners or operators of autobuses offering casino, charter or special bus operations if, in his opinion, there are circumstances prevalent with respect to the casino, charter or special bus industry which are or will be inconsistent with the interests of the consumers or users of casino, charter or special bus services.

4. R.S. 39:3-19 is amended to read as follows:

Annual registration fees.

39:3-19. For each vehicle used as an omnibus for the transportation of passengers for hire the applicant for the registration thereof shall pay an annual fee as follows:

\$30.00 for each vehicle having a seating capacity of 18 passengers or less;

\$48.00 for each vehicle having a seating capacity of not less than 19 nor more than 30 passengers;

\$48.00 for vehicles having a seating capacity of more than 30

passengers and an additional fee of \$3.00 for each passenger measured by the seating capacity in excess of 30 passengers.

Whenever the number of regular route passengers carried by an applicant in the previous calendar year represents 75% or more of the combined number of passengers carried on regular route, casino, special and charter bus operations during that year, then such applicant shall pay \$10.00 per annum for the registration of each vehicle used as an omnibus for the transportation of passengers for hire in lieu of the annual fees hereinbefore prescribed. In addition, any applicant who is operating regular route bus service under a contract with the New Jersey Transit Corporation pursuant to P.L. 1979, c. 150 (C. 27:25-1 et seq.), shall pay \$10.00 per annum for the registration of each vehicle used as an omnibus for the transportation of passengers for hire in lieu of the annual fees hereinbefore prescribed and without regard to the aforementioned 75% requirement.

Applicants seeking to register a vehicle for the reduced fee shall first obtain a letter from the Department of Transportation certifying that the number of regular route passengers carried by the applicant in the previous calendar year represents 75% or more of the combined number of passengers carried on regular route, casino, special and charter bus operations during that year, or in the case of applicants operating under contract with the New Jersey Transit Corporation pursuant to P.L. 1979, c. 150 (C. 27:25-1 et seq.) shall obtain a letter from the corporation certifying that they are under such a contract. Applicants shall present the appropriate letters of certification with their applications for omnibus registration to the Director of the Division of Motor Vehicles.

The director shall provide identification marks of the general style and kind provided for motor vehicle registrations, assigning a number to each identification mark, and before each number the letter "O" shall be placed.

Every applicant for omnibus registration shall make application, setting forth the fact that he is in the business of transporting passengers for hire; and the director, if satisfied of the correctness of the statements made in such application, may issue a registration certificate for omnibus license.

Nothing in this section shall prohibit the use by an omnibus operator of any automobile duly licensed by him as owner.

5. R.S. 54:39-66 is amended to read as follows:

Motor fuel tax refunds.

54:39-66. Any person:

(1) Who shall use any fuels as herein defined for any of the following purposes:

(a) (Deleted by amendment.)

(b) Autobuses while being operated over the highways of this State in those municipalities to which the operator has paid a monthly franchise tax for the use of the streets therein under the provisions of R.S. 48:16-25 and autobuses while being operated over the highways of this State in a regular route bus operation as defined in R.S. 48:4-1 and under operating authority conferred pursuant to R.S. 48:4-3, or while providing bus service under a contract with the New Jersey Transit Corporation or under a contract with a county for special or rural transportation bus service subject to the jurisdiction of the New Jersey Transit Corporation pursuant to P.L. 1979, c. 150 (C. 27:25-1 et seq.), and autobuses providing commuter bus service which receive or discharge passengers in New Jersey. For the purpose of this paragraph "commuter bus service" means regularly scheduled passenger service provided by motor vehicles whether within or across the geographical boundaries of New Jersey and utilized by passengers using reduced fare, multiple ride or commutation tickets and shall not include charter bus operations or special bus operations as defined in R.S. 48:4-1 or buses operated for the transportation of enrolled children and adults referred to in subsection c. of R.S. 48:4-1,

(c) Agricultural tractors not operated on a public highway,

(d) Farm machinery,

(e) Aircraft,

(f) Ambulances,

(g) Rural free delivery carriers in the dispatch of their official business,

(h) Such vehicles as run only on rails or tracks, and such vehicles as run in substitution therefor,

(i) Such highway motor vehicles as are operated exclusively on private property,

(j) Motor boats or motor vessels used exclusively for or in the

propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State,

(k) Motor boats or motor vessels used exclusively for commercial fishing,

(l) Motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties,

(m) Cleaning,

(n) Fire engines and fire-fighting apparatus,

(o) Stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways,

(p) Heating and lighting devices,

(q) Fuels previously taxed under this chapter and later exported or sold for exportation from the State of New Jersey to any other state or country; provided, proof satisfactory to the director of such exportation is submitted,

(r) Motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America,

(s) Emergency vehicles used exclusively by volunteer first-aid or rescue squads, and

(t) Diesel fuel, the increase in the tax thereof as imposed by P.L. 1984, c. 73, as used by passenger automobiles and motor vehicles of less than 5,000 pounds gross weight;

(2) Who shall have paid the tax for such fuels, hereby required to be paid, shall be reimbursed and repaid the amount of tax so paid upon presenting to the director an application for such reimbursement or repayment, in form prescribed by the director, which application shall be verified by a declaration of the applicant that the statements contained therein are true. Such application for reimbursement or repayment shall be supported by an invoice, or invoices, showing the name and address of the person from whom purchased, the name of the purchaser, the date of purchase, the number of gallons purchased, the price paid per gallon, and an acknowledgment by the seller that payment of the cost of the fuel, including the tax thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

The director may, in his discretion, permit a distributor entitled to a refund under the provisions of this section to take credit therefor, in lieu of such refund, in such manner as the director may require, on a report filed pursuant to R.S. 54:39-27.

Any refund granted to a person under subsection (1)(e), for fuel used in aircraft, shall be paid from the moneys deposited in the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety Act of 1983," P.L. 1983, c. 264 (C. 6:1-92). Such refunds shall be granted on an annual basis.

6. Section 2 of P.L. 1963, c. 44 (C. 54:39A-2) is amended to read as follows:

C. 54:39A-2 Definitions.

2. For the purpose of this act, unless inconsistent with the context:

(a) "User" means every person, firm or corporation who or which operates or causes to be operated any motor vehicle on any highway in this State. The term shall include a rental company in the case of a rental vehicle.

(b) "Motor vehicle" means any omnibus that has seats for more than 10 passengers in addition to the driver, or road tractor, or any truck tractor, or any truck having a gross or registered weight, whichever is greater, in excess of 18,000 pounds alone or in combination with a motor-drawn vehicle.

(c) "Exempt vehicle" means:

(1) Any vehicle owned or operated by an agency of this State or any political subdivision thereof, or any quasi-governmental authority of which this State is a participating member, or any agency of the federal government or the District of Columbia, or of any state or province or political subdivision thereof.

(2) School bus as defined in R.S. 39:1-1.

(3) Vehicles operated under authority of dealer, manufacturer, converter and transporter general registration plates such as prescribed in R.S. 39:3-18 and similar laws of other states.

(4) Special mobile equipment not designed or used primarily for the transportation of persons or property.

(5) Vehicles operated not for profit by any religious or charitable organization.

(6) Vehicles operated by a public utility as defined in R.S. 48:2-13, or under a contract with the New Jersey Transit Corporation or under a contract with a county for special or rural transportation bus service subject to the jurisdiction of the New Jersey Transit Corporation pursuant to P.L. 1979, c. 150 (C. 27:25-1 et seq.) whose operations are limited to the State of New Jersey, or vehicles providing commuter bus service which receive or discharge passengers in New Jersey.

(7) Vehicles operated, not for hire, by a farmer as defined in R.S. 39:3-25.

(8) Vehicles used to transport farm labor.

(d) "Operations" means operations of all motor vehicles, whether loaded or empty, whether for compensation or not for compensation, and whether owned by, contracted for use by, or leased by the user who operates or causes them to be operated, except operations of an omnibus in a regular route bus operation as defined in R.S. 48:4-1 and under operating authority conferred pursuant to R.S. 48:4-3.

(e) The term "motor fuels" means any combustible liquid or gaseous substance used, or suitable, for the generation of power to propel motor vehicles.

(f) "Motor fuel tax" means the tax imposed under R.S. 54:39-1 et seq.

(g) "Director" shall mean the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

(h) "Purchaser" means the person, firm or corporation who or which purchased the fuel, and paid the motor vehicle fuel tax thereon, used in the motor vehicles of the user.

(i) "Vendor" means any person, firm or corporation licensed, or required by law to be licensed, by the Director of the Division of Taxation to sell, distribute, import or transport motor fuels within this State.

(j) "Bulk fuel" means fuel in quantities of not less than 500 gallons, delivered into storage tanks owned, or rented under lease for a term of not less than one year, by the user for future consumption. For the purposes of this act the term "storage tanks" shall not apply to vehicle storage tanks used only to carry motor fuels for use in propelling the vehicle carrying these tanks.

(k) "Rental vehicle" means a vehicle owned by a rental company and rented to the general public on an hourly, daily, trip, or other short-term basis.

(l) "Rental company" means a person engaged in the business of renting vehicles to the general public, including motor carriers, on an hourly, daily, trip, or other short term basis.

(m) "Commuter bus service" means regularly scheduled passenger service provided by motor vehicles within or across the geographical boundaries of New Jersey and utilized by passengers using reduced fare, multiple ride or commutation tickets and shall not include charter bus operations or special bus operations as defined in R.S. 48:4-1 or buses operated for the transportation of enrolled children and adults referred to in subsection c. of R.S. 48:4-1.

7. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 446

AN ACT concerning pension allowances and distribution of unpaid contributions and amending N.J.S. 18A:66-47 and P.L. 1954, c. 84.

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

1. N.J.S. 18A:66-47 is amended to read as follows:

Teachers' retirement allowance options.

18A:66-47. At the time of his retirement a member shall receive his benefits in a retirement allowance payable throughout life, or he may on retirement elect to receive the actuarial equivalent of his retirement allowance, in a lesser retirement allowance payable throughout life, with the provision that:

Option 1. If he dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation acknowledged and filed with the retirement system, either in lump sum or by equal payments over a period of years at the option of the payee. If the member shall have designated a natural person as a payee,

said payee may elect to receive such payments in the form of a life annuity.

Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to whomever he nominates, if such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value. In no case, however, shall the lesser retirement allowance be smaller than that provided under Option 2.

If the total amount of benefits paid to a retirant who does not elect to receive his benefits in the form of an optional settlement, or to the retirant and the designated beneficiary in the case of a retirant who does so elect, before the death of the retirant or the retirant and the beneficiary is less than the deductions accumulated in the retirant's account at the time of retirement, including regular interest, the balance shall be paid in one lump sum to the retirant's designated beneficiary or estate in the manner provided in N.J.S. 18A:66-48.

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to section 18A:66-36 or (2) early retirement allowances pursuant to section 18A:66-37 after separation from service pursuant to section 18A:66-36, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, his retirement allowance shall not become effective and he shall be considered an active member at the time of death. However, if the member dies 30 days or more after the date the application for retirement was filed with the system, the retirement will become effective if:

- a. The application for retirement was received by the system prior to the date of death;
- b. The deceased member had terminated covered public employment at least one day prior to the effective date of retirement;

c. The deceased member had designated a beneficiary under an optional settlement provided by this section; and

d. The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall become irrevocable.

The board may select an Option 3 settlement, on behalf of the beneficiary of a member who applied for and was eligible for retirement but who died prior to the effective date of the retirement allowance, if all of the above conditions, with the exception of c., are met.

2. Section 50 of P.L. 1954, c. 84 (C. 43:15A-50) is amended to read as follows:

C. 43:15A-50 Public employee pension options.

50. At the time of his retirement, a member shall receive his benefits in a retirement allowance payable throughout life, or he may, on retirement, elect to receive the actuarial equivalent of his retirement allowance, in a lesser retirement allowance payable throughout life, with the provision that:

Option 1. If he dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation acknowledged and filed with the retirement system, either in a lump sum or by equal payments over a period of years at the option of the payee. If the member shall have designated a natural person as the payee, said payee may elect to receive such payments in the form of a life annuity.

Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to whomever he nominates, if such other benefit or benefits, together with the lesser retirement allowance, shall be

certified by the actuary to be of equivalent actuarial value. In no case, however, shall the lesser retirement allowance be smaller than that provided under Option 2.

If the total amount of benefits paid to a retirant who does not elect to receive his benefits in the form of an optional settlement, or to the retirant and the designated beneficiary in the case of a retirant who does so elect, before the death of the retirant or the retirant and the beneficiary is less than the deductions accumulated in the retirant's account at the time of retirement, including regular interest, the balance shall be paid in one lump sum to the retirant's designated beneficiary or estate in the manner provided in section 51 of P.L. 1954, c. 84 (C. 43:15A-51).

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to section 38 or (2) early retirement allowances pursuant to section 41b after separation from service pursuant to section 38, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, his retirement allowance shall not become effective and he shall be considered an active member at the time of death. However, if the member dies 30 days or more after the date the application for retirement was filed with the system, the retirement will become effective if:

- a. The application for retirement was received by the system prior to the date of death;
- b. The deceased member had terminated covered public employment at least one day prior to the effective date of retirement;
- c. The deceased member had designated a beneficiary under an optional settlement provided by this section; and
- d. The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall be irrevocable.

The board may select an Option 3 settlement, on behalf of the beneficiary of a member who applied for and was eligible for retirement but who died prior to the effective date of the retirement allowance, if all of the above conditions, with the exception of c., are met.

3. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 447

AN ACT concerning certain retirants of the State Police Retirement System and supplementing P.L. 1965, c. 89 (C. 53:5A-1 et seq.).

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

C. 53:5A-44.1 Medicare premium reimbursement.

1. Any retirant of the State Police Retirement System established pursuant to P.L. 1965, c. 89 (C. 53:5A-1 et seq.) who pays the premium charges under Part A and Part B of the federal medicare program covering the retirant and the retirant's spouse shall be reimbursed by the State for the premium charges paid under Part A. "Medicare" as used in this act means the coverage provided under Title XVIII of the Social Security Act as amended in 1965 or its successor plan or plans.

2. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 448

AN ACT concerning the annual salaries of members of the Senate and General Assembly and amending P.L. 1948, c. 16.

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

1. Section 1 of P.L. 1948, c. 16 (C. 52:10A-1) is amended to read as follows:

C. 52:10A-1 Salaries of legislators.

1. Members of the Senate and General Assembly shall receive annually, during the term for which they shall have been elected and while they shall hold their office, compensation in the sum of \$25,000.00 beginning with the 1984 legislative year, and compensation in the sum of \$35,000.00 beginning with the 1990 legislative year and thereafter. The President of the Senate and the Speaker of the General Assembly, each by virtue of his office, shall receive an additional allowance, equal to one-third of his compensation as a member. The compensation herein provided shall be paid to each member upon his qualifying into office as such member, and the additional

allowance herein provided to the President of the Senate and the Speaker of the General Assembly shall be paid upon his qualifying into office as such officer.

2. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 449

AN ACT concerning solid waste transfer stations, amending P.L. 1970, c. 39 and P.L. 1987, c. 74, and supplementing P.L. 1975, c. 326.

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

1. Section 3 of P.L. 1970, c. 39 (C. 13:1E-3) is amended to read as follows:

C. 13:1E-3 Definitions.

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

a. "Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

b. "Solid waste collection" means the activity related to pick-up and transportation of solid waste from its source or location to a disposal site or to a resource recovery facility.

c. "Disposal" means the storage, treatment, utilization, processing, resource recovery of, or the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste into or on any land or water, so that the solid or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

d. "Solid waste management" includes all activities related to the collection and disposal of solid waste by any person engaging in such process.

- e. "Council" means the Advisory Council on Solid Waste Management.
- f. "Department" means the State Department of Environmental Protection.
- g. "Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.
- h. "Solid waste facilities" mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of this or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.
- i. "Public authority" means any solid waste management authority created pursuant to the "solid waste management authorities law," P.L. 1968, c. 249 (C. 40:66A-32 et seq.); municipal utility authority created pursuant to the "municipal and county utilities authorities law," P.L. 1957, c. 183 (C. 40:14B-1 et seq.); incinerator authority created pursuant to the "incinerator authorities law," P.L. 1948, c. 348 (C. 40:66A-1 et seq.); county improvement authority created pursuant to the "county improvement authorities law," P.L. 1960, c. 183 (C. 40:37A-44 et seq.), or any other public body corporate and politic created for solid waste management purposes in any county or municipality, pursuant to the provisions of any law.
- j. "Hackensack Meadowlands District" means the area within the jurisdiction of the Hackensack Meadowlands Development Commission created pursuant to the provisions of the "Hackensack Meadowlands Reclamation and Development Act," P.L. 1968, c. 404 (C. 13:17-1 et seq.).
- k. "Hackensack Commission" means the Hackensack Meadowlands Development Commission created pursuant to the provisions of the "Hackensack Meadowlands Reclamation and Development Act," P.L. 1968, c. 404 (C. 13:17-1 et seq.).
- l. "Existing solid waste facility" means that portion of an active solid waste facility which, on the effective date of this act, possesses a valid approved registration from the department.

m. "New solid waste facility" means any solid waste facility or portion thereof which does not qualify as an existing solid waste facility.

n. "Public sewage treatment plant" means any structure or structures required to be approved by the department pursuant to P.L. 1977, c. 224 (C. 58:12A-1 et seq.) or P.L. 1977, c. 74 (C. 58:10A-1 et seq.), by means of which domestic wastes are subjected to any artificial process in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort or property of any of the inhabitants of this State, before the discharge of the plant effluent into any of the waters of this State; this definition includes plants for the treatment of industrial wastes, as well as a combination of domestic and industrial wastes.

o. "Resource recovery" means the collection, separation, recycling and recovery of metals, glass, paper and other materials for reuse or for energy production.

p. "Recycling facility" means any solid waste facility utilized to separate or process solid waste into marketable materials.

q. "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.

r. "Transfer station" means a solid waste facility at which solid waste is transferred from a solid waste collection vehicle to a solid waste haulage vehicle for transportation to a sanitary landfill facility, resource recovery facility, or other destination.

C. 13:1E-28.1 Transfer station payments.

2. (New section) a. Any municipality within which a transfer station is located pursuant to an adopted and approved district solid waste management plan shall be entitled to an annual economic benefit in amount established by agreement with the owner or operator of the transfer station, but not less than the equivalent of \$0.50 per ton of all solid waste accepted for transfer at the transfer station during the 1987 calendar year and each year thereafter.

The owner or operator of the transfer station shall annually pay to the relevant municipality the full amount due under this subsection and each relevant municipality is empowered to anticipate this amount for the purposes of preparing its annual budget. For the

purposes of calculating the payments, the owner or operator of the transfer station may, subject to the prior agreement of the relevant municipality and the approval of the Board of Public Utilities, provide the municipality with any of the following benefits in consideration for the use of land within its municipal boundaries as the location of a transfer station:

- (1) The receipt of annual sums of money in lieu of taxes on the land used for the transfer station;
- (2) The exemption from all fees and charges for the acceptance for transfer of solid waste generated within its boundaries;
- (3) The receipt of a lump sum cash payment; or
- (4) Any combination thereof.

b. Every owner or operator of a transfer station required to make annual payments to a municipality pursuant to subsection a. of this section may petition the Board of Public Utilities for an increase in its tariff which reflects these payments. The board, within 60 days of the receipt of the petition, shall issue an order that these payments shall be passed along to the users of the transfer station as an automatic surcharge on any tariff filed with, and recorded by, the board for the solid waste disposal operations of the transfer station.

c. The board, within 60 days of the computation of any increase in a solid waste disposal tariff for a transfer station pursuant to subsection b. of this section, shall issue an appropriate order increasing current tariffs established pursuant to law for solid waste collectors using the transfer station by an amount equal to the total amount of the increase in the relevant solid waste disposal tariff calculated pursuant to subsection b. of this section.

d. In issuing any order required by this section, the Board of Public Utilities shall be exempt from the provisions of R.S. 48:2-21.

3. Section 4 of P.L. 1987, c. 74 (C. 40A:4-45.32) is amended to read as follows:

C. 40A:4-45.32 Spending limitation exceptions.

4. Notwithstanding the provisions of sections 3 and 4 of P.L. 1976, c. 68 (C. 40A:4-45.3 and 40A:4-45.4) to the contrary, a county or municipality may expend the funds which may be received as revenue as provided herein or which are necessary to pay the following costs or to meet the following requirements, as exceptions to the spending limitations imposed by P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.):

a. Amounts necessary for any rates, fees, taxes, contract costs or other charges, including recycling and closure costs, associated with the collection, transportation and disposal of solid waste;

b. Amounts for the installation and use of scales to determine the weight of all vehicles disposing of solid waste at a solid waste facility as required by P.L. 1983, c. 93 (C. 13:1E-117 et seq.) and amounts incurred by any municipality for the disposal of solid waste as a direct result of the installation and use of those scales; or

c. Expenditures of revenues received pursuant to section 5 of P.L. 1981, c. 278 (C. 13:1E-96), section 39 of P.L. 1985, c. 38 (C. 40A:4-27.1) in the case of municipalities, section 41 of P.L. 1985, c. 38 (C. 40A:4-27.2) in the case of municipalities, section 2 of P.L. 1987, c. 449 (C. 13:1E-28.1) in the case of municipalities, or revenues received from the sale of recyclable materials.

4. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 450

AN ACT concerning the reporting of certain information by employers, supplementing Title 43 of the Revised Statutes, and making an appropriation.

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

C. 43:21-14a ZIP Code reporting.

1. In addition to the information required to be reported pursuant to the provisions of subsection (2)(A) of R.S. 43:21-14, every employer shall, in accordance with regulations established by the Commissioner of Labor, report, on an annual basis, the ZIP Code of the residence of each full-time employee and regularly employed part-time employee of the employer, and the ZIP Code of the location where the employee regularly works.

C. 43:21-14b Information to Transportation commissioner.

2. The Commissioner of Labor shall transmit the information received from employers as provided in section 1 of this act to the Commissioner of Transportation, who shall utilize the information

in developing plans and programs for traffic control, highway maintenance and construction, and mass transit.

3. There is appropriated from the General Fund \$63,000.00 to the Department of Labor for the purpose of implementing this act.

4. This act shall take effect on the 90th day following enactment and shall expire five years after the effective date.

Approved January 19, 1988.

CHAPTER 451

AN ACT to amend the "New Jersey Prevailing Wage Act," approved September 3, 1963 (P.L. 1963, c. 150).

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

1. Section 7 of P.L. 1963, c. 150 (C. 34:11-56.31) is amended to read as follows:

C. 34:11-56.31 Powers of commissioner.

7. The commissioner shall have the authority to:

(a) investigate and ascertain the wages of workmen employed in any public work in the State;

(b) enter and inspect the place of business or employment of any employer or workmen in any public work in the State, for the purpose of examining and inspecting any or all books, registers, payrolls, and other records of any such employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of any such workmen; copy any or all of such books, registers, payrolls, and other records as he or his authorized representative may deem necessary or appropriate; and question such workmen for the purpose of ascertaining whether the provisions of this act have been and are being complied with;

(c) require from such employer full and correct statements in writing, including sworn statements, with respect to wages, hours, names, addresses, and such other information pertaining to his workmen and their employment as the commissioner, or his authorized representative may deem necessary or appropriate; and

(d) require any employer to file, within 10 days of receipt of a request, any records enumerated in subsections (b) and (c) of this section, sworn to as to their validity and accuracy. If the employer fails to provide the requested records within 10 days, the commissioner may direct within 15 days the fiscal or financial officer charged with the custody and disbursements of the funds of the public body which contracted for the public work immediately to withhold from payment to the employer up to 25% of the amount, not to exceed \$100,000.00, to be paid to the employer under the terms of the contract pursuant to which the public work is being performed. The amount withheld shall be immediately released upon receipt by the public body of a notice from the commissioner indicating that the request for records has been satisfied.

2. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 452

AN ACT concerning autobuses and revising parts of the statutory law.

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

1. Section 90 of P.L. 1962, c. 198 (C. 48:4-2.1a) is amended to read as follows:

C. 48:4-2.1a Discontinuance of operation of motor vehicle.

90. a. The Commissioner of Transportation may make rules, regulations and orders applicable to the construction, equipment and insurance required of every motor vehicle within the jurisdiction of the Department of Transportation, and shall inspect, through the department's agents, inspectors and employees, any such motor vehicle to determine the manner of compliance with such rules, regulations and orders.

b. In the event of noncompliance with such rules, regulations and orders, or with statutory requirements, the commissioner may, through the department's agents, inspectors and employees, cause the immediate discontinuance of the operation of such motor vehicle, and no such motor vehicle shall be restored to service without the express approval of the commissioner.

c. Any person who shall remove or deface any notice of discontinuance that has been affixed or otherwise attached to said motor vehicle without approval of the commissioner is guilty of a crime of the fourth degree. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of \$1,000.00.

d. Any person who owns or causes to be operated a motor vehicle subject to this section without a valid certificate of inspection issued by the commissioner, or in violation of rules or orders made by the commissioner concerning insurance requirements of that vehicle, is a disorderly person. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of \$500.00 per day for each vehicle so operated.

e. Any person who operates a motor vehicle subject to this section without a valid certificate of inspection issued by the commissioner, or in violation of rules or orders made by the commissioner concerning insurance requirements of that vehicle, is a petty disorderly person.

2. R.S. 48:4-3 is amended to read as follows:

Certificate of public convenience and necessity.

48:4-3. a. No autobus, charter bus operation or special bus operation which is engaged, wholly or partly, in intrastate commerce shall be operated or run while carrying passengers for hire within the State of New Jersey unless there is in force with respect to such operation a certificate of public convenience and necessity issued by the Commissioner of Transportation authorizing such operation upon a determination that such operation is in the public interest.

b. Any person who owns or causes to be operated or operates an autobus without a valid certificate of public convenience and necessity or in violation of the provisions thereof is subject to a civil penalty for each day of operation in the following amounts: \$500.00 per day for each of the first four days, \$600.00 for the fifth day, \$700.00 for the sixth day, \$800.00 for the seventh day, \$900.00 for the eighth day and \$1,000.00 for the ninth day and \$1,000.00 for each day thereafter.

c. When any person violates the provisions of this section on more than one occasion, the commissioner may, by order, after notice and hearing, declare that person to be an unfit operator and cause the revocation of any certificates of public convenience and necessity issued to that person and declare that that person shall have no standing to petition for any further certificates. The commissioner

may stay or revoke any order made under this subsection when he finds it to be in the public interest to do so.

3. R.S. 48:4-11 is amended to read as follows:

Penalties.

48:4-11. a. Any person who shall operate an autobus, charter bus operation or special bus operation within the State of New Jersey without complying with the provisions of this article shall be subject to the penalties provided herein.

Proceedings to prevent a person from operating an autobus without a valid certificate of public convenience and necessity, and to recover damages for lost revenues caused by those operations, may be instituted by an autobus public utility, the business or revenues of which are adversely affected thereby.

Except for proceedings instituted by an autobus public utility, every civil penalty for violation of any provision of this article and for a violation of section 90 of P.L. 1962, c. 198 (C. 48:4-2.1a) shall be sued for and recovered by and in the name of the Commissioner of Transportation and shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). Process shall issue at the suit of the commissioner, as plaintiff, and shall be in the nature of a summons and complaint returnable in the Law or Chancery Division of the Superior Court or in the various municipal courts. Every day that a violation exists shall be a separate violation for which a penalty may be recovered. Proceedings may be instituted on any day of the week including Sunday or upon a holiday, and any process issued pursuant to this article or pursuant to section 90 of P.L. 1962, c. 198 (C. 48:4-2.1a) shall be deemed valid as if served or issued on any other day.

b. The commissioner may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division of the Superior Court as to any person found to have violated any provision of this article or any provision of section 90 of P.L. 1962, c. 198 (C. 48:4-2.1a).

Repealer.

4. The following are repealed: R.S. 48:4-2.1 and sections 1 and 2 of P.L. 1977, c. 16 (C. 48:4-2.18 and 48:4-2.19).

5. This act shall take effect on the 60th day after enactment.

Approved January 19, 1988.

CHAPTER 453

AN ACT concerning boat safety courses and supplementing P.L. 1962, c. 73 (C. 12:7-34.36 et seq.) and amending P.L. 1982, c. 77.

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

C. 12:7-60 Approved boat safety courses.

1. The Superintendent of State Police in the Department of Law and Public Safety shall establish a list of approved boat safety courses offered by public or private persons or agencies for profit or otherwise. Approved courses shall provide formal instruction in power vessel handling and safety. The superintendent may approve a boat safety course upon his own initiative or by application on a form to be created by the superintendent. The superintendent shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations to implement this section.

C. 12:7-61 Requirement for youthful operators.

2. a. No person 16 years of age or younger shall operate a power vessel on the tidal or nontidal waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

b. A person 16 years of age or younger, when operating a power vessel on the tidal or nontidal waters of this State, shall have in his possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

c. A person 16 years of age or younger who operates a power vessel on the tidal or nontidal waters of this State without having completed a boat safety course approved by the superintendent or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than \$100.00 nor more than \$500.00.

3. Section 4 of P.L. 1982, c. 77 (C. 2A:4A-23) is amended to read as follows:

C. 2A:4A-23 Definition of delinquency.

4. Definition of delinquency. As used in this act, "delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

- a. A crime;
- b. A disorderly persons offense or petty disorderly persons offense;
- or
- c. A violation of any other penal statute, ordinance or regulation.

But, the commission of (1) an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of or over the age of 17 years; (2) an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39 of the Revised Statutes by a juvenile of any age; (3) an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes pertaining to pedestrians and bicycles, by a juvenile of any age; or (4) the commission of an act which constitutes a violation of P.L. 1981, c. 318 (C. 26:3D-1 et seq.), P.L. 1981, c. 319 (C. 26:3D-7 et seq.), P.L. 1981, c. 320 (C. 26:3D-15 et seq.), P.L. 1985, c. 185 (C. 26:3E-7 et seq.), P.L. 1985, c. 186 (C. 26:3D-32 et seq.), N.J.S. 2C:33-13, P.L. 1985, c. 318 (C. 26:3D-38 et seq.), P.L. 1985, c. 381 (C. 26:3D-46 et seq.), or of any amendment or supplement thereof, by a juvenile of any age; or (5) an act which constitutes a violation of chapter 7 of Title 12 of the Revised Statutes relating to the regulation and registration of power vessels, by a juvenile of any age or section 2 of P.L. 1987, c. 453 (C. 12:7-61) shall not constitute delinquency as defined in this act. The municipal court having jurisdiction over a case involving a violation by a juvenile of a section of Title 26 listed in this subsection, or N.J.S. 2C:33-13, shall forward a copy of the record of conviction in that case to the Family Part intake service of the county where the municipal court is located.

4. This act shall take effect immediately, but sections 2 and 3 of this bill shall not become operative until the 366th day following enactment.

Approved January 19, 1988.

CHAPTER 454

AN ACT concerning the protection of marks, amending and supplementing P.L. 1966, c. 263 and repealing sections 11 and 12 thereof.

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

1. Section 1 of P.L. 1966, c. 263 (C. 56:3-13.1) is amended to read as follows:

C. 56:3-13.1 Definitions.

1. Definitions.

(A) The term "trademark" as used herein means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him and to distinguish them from goods made or sold by others.

(B) The term "service mark" as used herein means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others.

(C) The term "mark" as used herein includes any trademark or service mark entitled to registration under this act whether registered or not.

(D) The term "person" as used herein means any individual, firm, partnership, corporation, association, union or other organization.

(E) The term "applicant" as used herein embraces the person filing an application for registration of a trademark under this act, his legal representative, successors or assigns.

(F) The term "registrant" as used herein embraces the person to whom the registration of a trademark under this act is issued, his legal representative, successors or assigns.

(G) For the purposes of this act, a trademark shall be deemed to be "used" in this State (a) on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto and the goods are sold or otherwise distributed in the State, and (b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this State.

(H) The term “counterfeit mark” as used herein means a spurious mark that is identical with or substantially indistinguishable from a genuine mark that is registered on the principal register in the United States Patent and Trademark Office or registered in the New Jersey Secretary of State’s Office; that is used or is intended to be used on or in connection with goods or services for which the genuine mark is so registered and is in use; that is specifically protected by federal statute; or that is registered pursuant to this act. This term does not include any mark used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question or a reasonable time before the manufacture or production, in a contractual or other relationship, permitting the use of the mark for the type of goods or services so manufactured or produced, with the holder of the right to use the mark, unless the user has knowledge of the termination of the relationship.

(I) The term “traffic” as used herein means to transfer, assign, or dispose of, to another, for value; to manufacture, advertise, promote, or offer to transfer, assign or dispose of for value; to receive, possess, transport, or exercise control of, with intent to transfer, assign, or dispose of for value; or to assist another in doing any of the foregoing.

C. 56:3-13.16 Action for trafficking in counterfeit marks.

2. (New section) a. An owner or the designee of an owner of a mark registered pursuant to P.L. 1966, c. 263 (C. 56:3-13.1 et seq.) or registered on the principal register in the United States Patent and Trademark Office may bring a civil action against a person causing him injury to his business or property as a result of knowing trafficking or attempt to traffic in counterfeit marks or goods identified by counterfeit marks in the commerce of this State with the intent to deceive or defraud, or to assist in deceiving or defrauding, directly or indirectly, another person.

In determining the existence of defendant’s intent to deceive or defraud, the trier of fact shall consider, among other pertinent factors, the likelihood that the goods or services on or in connection with which the counterfeit mark is used or intended to be used will be mistaken for goods or services for which the genuine mark is registered and is in use.

b. The action shall be brought in the Superior Court of the county in which the defendant resides, is found, has an agent, transacts business, or in which the counterfeit mark is found.

c. The plaintiff in the civil action shall establish violation of subsection a. by a preponderance of the evidence. A jury trial shall be available at the request of either party.

d. Upon establishing a violation of this section, a plaintiff shall recover treble his damages or treble defendant's profits, whichever is greater, and the costs of investigating the violation and prosecuting the suit, including reasonable investigator's and attorney's fees. In assessing defendant's profits, plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claimed therefrom.

e. Upon finding a violation of this section, the court may, in its discretion, award prejudgment interest on the monetary recovery awarded under subsection d. of this section, at an annual interest rate established pursuant to Rule 4:42-11 of the Rules Governing the Courts of the State of New Jersey, commencing on the date of the service of the plaintiff's pleadings which set forth the claim for monetary recovery and ending on the date the judgment is awarded or for a shorter time as the court deems appropriate.

f. Any provisional or equitable remedy that would be available in a comparable civil action commenced under the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946 (60 Stat. 427; 15 U.S.C. 1051 et seq.) may, to the same extent and upon a comparable showing, be made available to a party in an action commenced under this section, subject to the conditions and requirements imposed by the Civil Practice Rules of the Rules Governing the Courts of the State of New Jersey.

g. If after a trial on the merits the defendant prevails and has proven by a preponderance of the evidence that the action was filed in bad faith, the defendant shall be entitled to recover the cost of litigation and all reasonable attorney's fees expended in the defense.

h. In any civil proceeding brought under this section, the court shall have jurisdiction to prevent and restrain trafficking in counterfeit marks by issuing appropriate orders, including, in appropriate circumstances, a temporary restraining order on notice to the defendant, or an ex parte temporary restraining order without a seizure, or an ex parte order without notice for the seizure of counterfeit goods and the following materials:

- (1) Spurious marks;

(2) The means of making the spurious marks;

(3) Articles in the defendant's possession bearing the spurious marks, or on or in connection with which the spurious marks are intended to be used;

(4) Business records documenting the manufacture, purchase or sale of counterfeit marks.

Any business records seized through an ex parte seizure order under this section shall be taken into the custody of the court. The applicant or its representatives shall not be permitted to see these records during the course of the search or thereafter, except under an appropriate protective order, issued on notice to the person from whom the business records were seized, with respect to confidential business information.

i. Ex parte seizure orders under this section shall not be issued unless the applicant:

(1) Provides an affidavit clearly setting forth specific facts in support of the need for the seizure order, and

(2) Provides security in an amount as the court deems adequate for the payment of damages as any person may suffer as a result of a wrongful seizure or wrongful attempted seizure of his property under this subsection. These damages shall include but not be limited to lost profits, the cost of materials, and loss of good will. In any case in which it is shown that the applicant caused the seizure without adequate evidence that the goods or materials were counterfeit, damages shall include reasonable attorney's fees.

(3) The court shall place under seal any order for an ex parte seizure under this section, together with the papers upon which the order was granted, until the party in possession of the goods or materials has been given an opportunity to contest the order.

j. No order for an ex parte seizure under this section shall be issued unless the court finds that a temporary restraining order on notice to the defendant or an ex parte temporary restraining order would be inadequate to protect the applicant's interest. In particular, no court shall issue an order for an ex parte seizure under this section unless it clearly appears from specific facts offered under oath or affirmation that:

(1) Counterfeit goods or the materials described above are located at the place identified in the affidavit;

(2) The applicant will suffer immediate and irreparable injury, loss or damage if the goods or materials are not seized through execution of an ex parte order, in that:

(a) The person from whom the goods or materials are to be seized would not comply with an order directing him to retain the goods or materials and to make them available to the court, but would instead make the goods or materials inaccessible by destroying, hiding or transferring them; or

(b) The person from whom the goods or materials are to be seized will otherwise act to frustrate the court in a proceeding under this section; and

(3) The applicant has made no effort to publicize the requested seizure and will refrain from doing so until the party in possession of the goods and materials has been given an opportunity to contest the order.

k. An order for a seizure under this section shall particularly describe the goods or materials to be seized, the place from which they are to be seized, and the amount of security provided by the applicant.

1. The court shall set a hearing date not more than 10 court days after the last date on which seizure is ordered at which any person from whom goods are seized may appear and seek release of the seized goods.

m. Where an order for seizure is made, the court shall direct the sheriff of the county in which the property is located to make the seizure or, where the property to be seized is located in more than one county, the direction shall issue to the sheriff of each of those counties. The sheriff shall make the seizure within 72 hours of the order.

C. 56:3-13.17 Destruction order.

3. (New section) In any civil action brought pursuant to this act, if the court determines that a mark is counterfeit, the court may order the destruction of all marks, all means of making the marks, and all goods, articles or other matter bearing the marks, which are in the possession or control of the court or any party to the action; or, after obliteration of the counterfeit mark, the court may order the disposal of the aforesaid materials to the State, a civil plaintiff, an eleemosynary institution, or any appropriate private person other than the person from whom the materials were obtained.

C. 56:3-13.18 Not exclusive remedy.

4. (New section) Nothing in this act shall supersede any provision of federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this act, except that no plaintiff who recovers treble damages or treble profits pursuant to subsection d. of section 2 of this act shall also be entitled to corresponding recovery under any other federal, State or other law in connection with the same underlying occurrences or transactions.

C. 56:3-13.19 Estoppel.

5. (New section) A final judgment or decree rendered in favor of the State in a criminal proceeding brought under Chapter 20 or 21 of Title 2C of the New Jersey Statutes shall estop the defendant in the action or proceeding in any subsequent civil action as to all matters as to which the judgment in the action or proceeding would be an estoppel between the parties to it.

Repealer.

6. Sections 11 and 12 of P.L. 1966, c. 263 (C. 56:3-13.11 and C. 56:3-13.12) are repealed.

7. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 455

AN ACT providing for the payment of certain transportation expenses of handicapped citizens of this State enrolled in sheltered (extended) employment programs at sheltered workshops and making an appropriation.

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

C. 34:16-51 Findings, declarations.

1. The Legislature finds and declares that many handicapped citizens enrolled in sheltered (extended) employment programs at sheltered workshops earn subminimum wages in a noncompetitive working environment and therefore require financial assistance so that they may meet their transportation costs.

The Legislature further finds and declares that the Department of Labor through its Division of Vocational Rehabilitation Services,

in conjunction with the Division of Developmental Disabilities in the Department of Human Services and the sheltered workshops of this State, should play a major role in defraying the costs of public transportation and paratransit expenses of handicapped citizens enrolled in sheltered (extended) employment programs at sheltered workshops.

C. 34:16-52 Definitions.

2. As used in this act:

a. "Division" means the Division of Vocational Rehabilitation Services in the Department of Labor.

b. "Handicapped citizen" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected.

c. "Paratransit" means and includes any service, other than motorbus regular route service and charter services, including, but not limited to, dial-a-ride, nonregular route, jitney or community minibus, and shared-ride services such as vanpools, limousines or taxicabs which are regularly available to the public. Paratransit shall not include limousine or taxicab service reserved for the private and exclusive use of individual passengers.

d. "Public transportation" means all rail passenger service operated by the New Jersey Transit Corporation, and all motorbus regular route service operated pursuant to P.L. 1979, c. 150 (C. 27:25-1 et seq.) or operated pursuant to R.S. 48:4-3.

e. "Sheltered (extended) employment programs" means those programs established pursuant to regulations adopted pursuant to section 8 of P.L. 1955, c. 64 (C. 34:16-27).

f. "Sheltered workshop" means a facility possessing a valid certificate to vend services to the division issued by the director thereof, in compliance with the rules and regulations governing vocational rehabilitation facilities.

C. 34:16-53 Transportation expense program.

3. The Commissioner of Labor is directed to establish and implement within 120 days of the effective date of this act a program to be administered by the division to defray the public transportation or paratransit expenses of handicapped citizens enrolled in sheltered (extended) employment programs at sheltered workshops. The pro-

gram may provide for the defraying of these expenses by the purchase of bus cards or other appropriate methods as prescribed by the commissioner.

C. 34:16-54 Annual survey.

4. The division shall annually conduct a survey to assess the transportation needs of these sheltered workshops.

C. 34:16-55 Rules, regulations.

5. The Commissioner of Labor shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of this act.

6. There is appropriated to the Department of Labor from the revenues deposited in the Casino Revenue Fund established pursuant to section 145 of P.L. 1977, c. 110 (C. 5:12-145) the sum of \$720,000.00 to effectuate the purposes and provisions of this act. In each subsequent fiscal year there shall be appropriated a sum sufficient to effectuate the purposes and provisions of this act.

7. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 456

AN ACT increasing the compensation paid to members of the New Jersey Public Employment Relations Commission and amending P.L. 1968, c. 303.

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

1. Section 6 of P.L. 1968, c. 303 (C. 34:13A-5.2) is amended to read as follows:

C. 34:13A-5.2 Public Employment Relations Commission.

6. There is hereby established in the Division of Public Employment Relations a commission to be known as the New Jersey Public Employment Relations Commission. This commission, in addition to the powers and duties granted by this act, shall have in the public employment area the same powers and duties granted to the labor mediation board in sections 7 and 10 of P.L. 1941, c. 100, and in

sections 2 and 3 of P.L. 1945, c. 32. This commission shall make policy and establish rules and regulations concerning employer-employee relations in public employment relating to dispute settlement, grievance procedures and administration including enforcement of statutory provisions concerning representative elections and related matters and to implement fully all the provisions of this act. The commission shall consist of seven members to be appointed by the Governor, by and with the advice and consent of the Senate. Of such members, two shall be representative of public employers, two shall be representative of public employee organizations and three shall be representative of the public including the appointee who is designated as chairman. Of the first appointees, two shall be appointed for two years, two for a term of three years and three, including the chairman, for a term of four years. Their successors shall be appointed for terms of three years each, and until their successors are appointed and qualified, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whose office has become vacant.

The members of the commission, other than the chairman, shall be compensated at the rate of \$250.00 for each six hour day spent in attendance at meetings and consultations and shall be reimbursed for necessary expenses in connection with the discharge of their duties except that no commission member who receives a salary or other form of compensation as a representative of any employer or employee group, organization or association, shall be compensated by the commission for any deliberations directly involving members of said employer or employee group, organization or association. Compensation for more, or less than, six hours per day, shall be prorated in proportion to the time involved.

The chairman of the commission shall be its chief executive officer and administrator, shall devote his full time to the performance of his duties as chairman of the Public Employment Relations Commission and shall receive such compensation as shall be provided by law.

2. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 457

AN ACT to establish an Occupational Information Coordinating Committee to be responsible for developing, managing and overseeing a statewide comprehensive occupational labor market supply and demand information system.

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

C. 34:1A-76 Occupational Information Coordinating Committee.

1. There is established in, but not of, the Department of Labor the New Jersey Occupational Information Coordinating Committee which shall:

a. Design and implement a comprehensive occupational information system to meet the common informational needs for the planning for, and the operation of, all public training and job placement programs and which is responsive to the economic demand and education and training supply support needs of the State and of areas within the State, as designated by the Commissioner of Labor.

b. Coordinate the standardization of available federal and State multi-agency administrative records and occupational survey data sources as needed by the committee to produce an employment, education and economic analysis that includes an identification of occupational areas of potential growth or decline and a discussion of the implications of these trends for employment, education and training policy and for economic development in the State. In preparing the analysis the committee shall also utilize a set of occupational projections for the State and areas within the State designated by the Commissioner of Labor, which shall be published by the Department of Labor.

c. Assure, to the greatest possible extent, that, with respect to the State's occupational supply and demand reporting system:

- (1) automated technology is used by the State;
- (2) administrative records are designed to reduce paperwork;
- (3) available administrative data and surveys are consolidated to reduce duplication of recordkeeping by State and local agencies, including secondary and postsecondary educational institutions; and
- (4) multiple survey burdens on employers in the State are reduced.

d. Publish and disseminate occupational labor market supply and demand information and individualized career information to State agencies, public libraries, and private not-for-profit users, and individuals who are in the process of making career decisions.

e. Conduct and encourage research and demonstration projects designed to improve any aspect of the statewide information system.

f. Publish, at least annually, a report which analyzes and summarizes the relationship between occupational supply and demand to serve as a guide for the State's job training and education programs.

g. Use the occupational information system to implement a career information delivery system which will provide students and other career decisionmakers with accurate, timely and locally relevant information on the careers available in the New Jersey labor market.

C. 34:1A-77 Membership; interagency agreement.

2. The committee shall:

a. Include the Commissioner of Commerce and Economic Development, as the representative of the State economic development agency; the Commissioner of Education, as the representative of the State board for vocational education; the Chancellor of Higher Education; the Commissioner of Labor, as the representative of the State employment security agency and the agency administering the vocational rehabilitation program; and the Chairman of the New Jersey State Job Training Coordinating Council.

b. Implement an interagency agreement among all of its statutory members detailing the operating procedures to be followed to fulfill the purposes of this act.

3. There is appropriated to the New Jersey Occupational Information Coordinating Committee from the General Fund the sum of \$95,000.00 for the purpose of carrying out the requirements of this act.

4. This act will take effect immediately.

Approved January 19, 1988.

CHAPTER 458

AN ACT creating a special task force and registration system for the apparel industry 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:

a. There is growing concern over the increasing number of people working for employers in certain segments of the apparel industry under conditions which may violate State laws and regulations concerning wages and hours, child labor, unemployment and temporary disability insurance, and workers' compensation and the payment of payroll taxes;

b. Persons working under these unlawful sweatshop conditions are being exploited daily;

c. It is the sense of this Legislature that this exploitation of garment workers must be eliminated; and

d. Therefore, it is necessary and proper for the Legislature to create a special task force to enforce the State's labor laws in the apparel industry and to establish a registration system for employers in that industry.

2. As used in this act:

a. "Apparel industry" means the making, cutting, sewing, finishing, assembling, pressing or otherwise producing of apparel, designed or intended to be worn by any individual and sold or offered for sale for that purpose, but does not include cleaning, pressing or tailoring services performed upon apparel sold or offered for sale at retail;

b. "Commissioner" means the Commissioner of Labor;

c. "Contractor" means any person who contracts to perform in this State the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose;

d. "Department" means the State Department of Labor;

e. "Manufacturer" means any person who contracts with a contractor to perform in this State the cutting, sewing, finishing, assembling, pressing or producing of any apparel, or a section or compo-

ment of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose, or who cuts, sews, finishes, assembles, presses or otherwise produces in this State any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose;

f. "Production employee" means any person who directly performs the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose;

g. "Special task force" means the Special Task Force on the Apparel Industry created by section 4 of this act.

3. a. No manufacturer or contractor shall engage in the apparel industry in this State unless the manufacturer or contractor is registered as a manufacturer or contractor with the department, in writing, on a form provided by the commissioner. That form shall contain the following information: whether the manufacturer or contractor is sole proprietorship, partnership, or corporation; the manufacturer's or contractor's name and principal business address in the State; the manufacturer's or contractor's tax identification number; and, if the registrant is a contractor, whether that contractor subcontracts the cutting or sewing of apparel or sections or components thereof. Divisions, subsidiary corporations, or related companies may, at the option of the manufacturer or contractor, be named and included under one omnibus registration.

b. The commissioner shall issue pursuant to the provisions of this act, a certificate of registration upon receipt of a manufacturer's or contractor's completed registration form and documentation that the manufacturer or contractor has workers' compensation coverage for the manufacturer's or contractor's production employees working in this State. The initial fee for each registration shall be \$100.00. Each subsequent annual renewal registration fee shall be \$50.00. The commissioner may prorate the initial annual registration fee if the certificate of registration is for a period of less than 12 months. Registrations shall be renewed on or before January 15th of each year, and all fees shall be payable to the Division of Workplace Standards. With respect to manufacturers or contractors operating prior to or on the effective date of this act, the initial registration shall be filed on or before the first day of the sixth month following the effective date of this act and shall be effective until the following January 15th.

With respect to new manufacturers or contractors, the initial registration shall be filed upon the commencement of manufacturing or contracting in the apparel industry and shall be effective until the following January 15th. The commissioner may, by order, compel registration pursuant to this subsection.

4. The commissioner shall establish, within 120 days of the effective date of this act, a Special Task Force on the Apparel Industry to enforce State labor laws affecting the employment of production employees in the apparel industry and to exercise the special duties and powers set forth in sections 5 and 6 of this act. The special task force shall include personnel from the department who shall be charged with ensuring compliance with the State's wage and hour, unemployment compensation, temporary disability, workers' compensation, and industrial homework laws.

5. The special task force is charged with the following duties:

a. To inspect manufacturers and contractors, with respect to their production employees, for compliance with the registration requirements of section 3 of this act;

b. To inspect manufacturers and contractors, with respect to their production employees, for compliance with other labor and payroll tax laws of this State that affect the employment of production employees; and

c. To ensure, with respect to their production employees, compliance by manufacturers and contractors with the orders of, and assessments of civil penalties by, the commissioner pursuant to this act and other labor laws of this State applicable to the employment of production employees.

6. The special task force shall have the following powers:

a. To investigate and conduct inspections at locations where an apparel industry manufacturer or contractor is operating to ensure compliance with this act;

b. To inspect books, records and premises of manufacturers and contractors, with respect to their production employees, to determine compliance with the State's labor laws, including but not limited to, laws concerning wages, overtime compensation, unemployment compensation and temporary disability insurance, workers' compensation coverage, child labor, and industrial homework laws; and

c. To take action authorized by this act necessary to implement its provisions.

7. a. Any manufacturer or contractor who has failed to comply with the registration requirements of section 3 of this act shall be deemed to have violated this act.

b. Any manufacturer or contractor who has failed to comply, for the second time within any three year period, with an order issued by the commissioner to comply with the registration requirements of section 3 of this act shall be deemed to have violated this act.

c. Any manufacturer or contractor who contracts for the performance of any apparel industry service, as identified in subsection a. of section 2 of this act, with any other manufacturer or contractor whom the manufacturer or contractor knows has failed to register, has failed to renew its registration, or has had its registration revoked by the commissioner shall be deemed to have violated this act.

d. No manufacturer or contractor shall perform services or hold himself out as being able to perform services as a registered manufacturer or contractor unless he holds a valid registration pursuant to this act.

e. If the commissioner or his designee determines that any manufacturer or contractor commits a violation as provided in subsection a., b., or c. of this section, or violates subsection d. of this section, the commissioner or his designee may impose a civil penalty, and such penalty shall be made with due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, upon the manufacturer or contractor up to \$1,000.00 for an initial violation and up to \$2,000.00 for each subsequent violation. Such penalty shall be paid to the Division of Workplace Standards to cover expenses associated with the implementation of this act, except as provided in subsection b. of section 11 of this act. Any civil penalty imposed pursuant to this section shall be enforceable in a summary manner pursuant to Rule 4:70 of the Rules Governing the Courts of the State of New Jersey.

f. If any manufacturer or contractor fails to comply with an order by the commissioner to register or renew registration, the commissioner may seek and obtain in a summary action in Superior Court an injunction prohibiting such unlawful activity.

g. An intentional failure to comply with the registration requirements of section 3 of this act shall be a crime of the fourth degree.

h. The commissioner may, after a hearing thereon, revoke, by order, after due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, the registration of any manufacturer or contractor for any period ranging from 30 days to one year upon being found guilty of a second violation of the same provision of this act within any three-year period.

i. Any manufacturer or contractor who contracts, for the second time within any three year period, for the performance of any apparel industry service with any other manufacturer or contractor whom the manufacturer or contractor knows has failed to comply with the registration requirements of section 3 of this act, shall, if the other manufacturer or contractor has failed to pay any civil penalty assessed under subsection e. of this section, be liable to pay a civil penalty equal to the civil penalty that the other manufacturer or contractor has been assessed.

j. Nothing herein shall affect either the authority of the department to enforce the industrial homework laws of this State or the right of any manufacturer to possess or repossess any apparel, or sections or components of apparel, that are located at any contractor with whom it has contracted.

8. Information obtained or collected by the department pursuant to this act shall be exempt from P.L. 1963, c. 73 (C. 47:1A-1 et seq.), and shall be used exclusively by the special task force in effectuating the purposes of this act.

9. Two years after the effective date of this act the special task force shall issue a report on its activities. This report shall be delivered to the labor committees and appropriations committees of the Legislature.

10. The special task force shall receive training to be provided by the State in each of the areas of the State's labor laws and other applicable State laws necessary to carry out the duties and powers of section 5 and section 6 of this act.

11. a. There is appropriated from the General Fund \$350,000.00 to the Division of Workplace Standards in the Department of Labor to effectuate the purposes of this act.

b. Receipts from registration fees and penalties collected pursuant to the provisions of this act, up to \$350,000.00, shall be deposited in the General Fund. Receipts in excess of that amount are appropriated to the division to effectuate the purposes of this act.

12. This act shall take effect immediately but shall not become operative until the first day of the sixth month following the date of enactment, except section 4 which shall become operative immediately. This act shall expire three years after section 3 of this act becomes operative.

Approved January 19, 1988.

CHAPTER 459

AN ACT concerning the term of the chairman of 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 4 of P.L. 1985, c. 334 (C. 58:11B-4) is amended to read as follows:

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 reappointment. 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 two years and until a successor has been designated. A chairman shall be eligible to succeed himself for one additional two year term. 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.

2. This act shall take effect immediately.

Approved January 19, 1988.

CHAPTER 460

AN ACT concerning financing for transportation purposes, increasing the tax on motor fuels, amending R.S. 54:39-27 and amending and supplementing P.L. 1984, c. 73.

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

1. Section 4 of P.L. 1984, c. 73 (C. 27:1B-4) is amended to read as follows:

C. 27:1B-4 Transportation Trust Fund Authority.

4. a. There is hereby established in the department a public body corporate and politic, with corporate succession, to be known as the "New Jersey Transportation Trust Fund Authority." For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is hereby allocated within the Department of Transportation, but notwithstanding said allocation, the authority shall be independent of any supervision or control by the department or by any board or officer thereof. The authority is hereby constituted as an instrumentality of the State, exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of five members as follows: the commissioner and the State Treasurer, who shall be members ex officio, and three public members, one of whom shall be appointed by the Governor, with the advice and consent of the Senate, and the two remaining to be appointed by the Governor, one of whom upon recommendation of the President of the Senate and the other upon recommendation of the Speaker of the General Assembly. No more than three members of the authority shall be of the same political party. The public members appointed by the Governor shall serve a four year term, except that the public member appointed by the Governor upon recommendation of the President of the Senate shall serve for a four year term and the public member appointed upon recommendation of the Speaker of the General Assembly shall serve for a two year term.

With respect to those public members first appointed by the Governor: the Senate shall advise and consent to the appointment of the member not appointed upon recommendation of the President and the Speaker within 30 days of the receipt thereof from the Governor, such appointment having been sent by the Governor to the Senate within 20 days following the effective date of this act; the President of the Senate and the Speaker of the General Assembly shall send their recommendations for public members to the Governor within 20 days following the effective date of this act. The Governor has

an additional 10 days to accept or reject in writing these recommendations.

Each public member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each public member, except those appointed upon recommendation of the President of the Senate and the Speaker of the General Assembly, may be removed from office by the Governor, for cause, after public hearing, and may be suspended by the Governor pending the completion of such hearing. All members before entering upon their duties shall take and subscribe an oath to perform the duties of their office faithfully, impartially and justly to the best of their ability. A record of such oaths shall be filed in the Office of the Secretary of State.

d. The authority shall not be deemed to be constituted and shall not take action or adopt motions or resolutions until at least three authorized members shall have been appointed and qualified in the manner provided in this section. The commissioner shall serve as chairperson of the authority. Prior to the authority being constituted, the chairperson is authorized to transfer up to \$75 million to the department from the appropriations made to the authority for the fiscal year commencing July 1, 1984. The members shall annually elect one of their members as vice chairperson. The members shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and three members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least three members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority, except that the authority shall not have the power to issue its initial offering of bonds, notes or other obligations unless all five members of the authority shall have been appointed and qualified.

e. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual ex-

penses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no member shall be deemed to have forfeited nor shall the member forfeit the member's office or employment or any benefits or emoluments thereof by reason of the member's acceptance of the office of ex officio member of the authority or the member's services therein.

f. Each ex officio member may designate an employee of the member's department or agency to represent the member at meetings of the authority. All designees may lawfully vote and otherwise act on behalf of the member for whom they constitute the designee. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended in writing delivered to the authority.

g. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at the meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered, unless during this 15-day period the Governor shall approve in writing the same or any part thereof, in which case the action shall become effective upon approval. If, in said 15-day period, the Governor returns a copy of the minutes with his veto of any action taken by the authority or any member thereof at the meeting, the action shall be null and void and of no effect. Notwithstanding the foregoing, if the last day of the 15-day period shall be a Saturday, Sunday or legal holiday, then the 15-day period shall be deemed extended to the next following business day. The powers conferred in this paragraph upon the Governor shall be exercised with due regard for the rights of the holders of bonds, notes or other obligations of the authority at any time outstanding, and nothing in, or done pursuant to, this paragraph shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds, notes or other obligations or for the benefit, protection or security of the holders thereof.

h. The authority shall continue in existence until dissolved by act of the Legislature, except that it shall not continue in existence beyond 22 years unless the Legislature shall by law prescribe otherwise. However, any dissolution of this authority, by act of the Legislature or otherwise, shall be on condition that the authority has no

debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the authority, all property, rights, funds and assets thereof shall pass to and become vested in the State.

2. Section 9 of P.L. 1984, c. 73 (C. 27:1B-9) is amended to read as follows:

C. 27:1B-9 Issuance of bonds.

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and either the State Treasurer or the Director of the Division of Budget and Accounting in the Department of the Treasury.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in antici-

pation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine. Every bond issued on or before the effective date of this 1987 amendatory and supplementary act shall

mature and be paid not later than 17 years from the date thereof, except that no bond, note or other obligation shall mature and be paid later than 22 years from the effective date of P.L. 1984, c. 73 (C. 27:1B-1 et seq.), nor shall any refunding of such obligations mature or be paid later than that date. Every bond issued after the effective date of this 1987 amendatory and supplementary act shall mature and be paid not later than 11 years from the date thereof, except that no bond, note or other obligation shall mature and be paid later than 22 years from the effective date of P.L. 1984, c. 73 (C. 27:1B-1 et seq.).

Notes, the initial series of bonds and bonds issued for refunding purposes of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine.

Except as noted above, all bonds of the authority shall be sold at such price or prices and in such manner as the authority 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 authority, 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 authority 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.

f. Bonds or notes may be issued and other obligations incurred under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by the act.

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political

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

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

i. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the authority, may not exceed \$1,700,000,000.00. Any principal amount retired in any manner before and after the effective date of this 1987 amendatory and supplementary act shall not be applied to any unissued aggregate principal amount remaining under the limitations and reductions provided for in this subsection. If in any fiscal year appropriations by the Legislature to the authority, and amounts received in accordance with contracts entered into with the toll road authorities, if those amounts are not included in legislative appropriations, shall be in excess of \$143,000,000.00 in any fiscal year through the fiscal year beginning on July 1, 1986 or \$201,000,000.00 for the fiscal year beginning on July 1, 1987 or \$331,000,000.00 in any fiscal year thereafter, the aggregate principal amount of \$1,700,000,000.00 shall be reduced by an amount equal to the excess. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the authority, which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings.

The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt to meet its statutory purposes.

The authority shall not incur debt at any time in any fiscal year in excess of the difference between the amount of appropriations and other revenues to the authority theretofore made in that fiscal year and the amount which the Department of Transportation is permitted to commit for transportation projects under the act in that fiscal year as indicated in the budget, plus reasonably necessary expenses, required debt reserve funds, debt service and outstanding financial obligations from prior fiscal years of the authority.

Debt which would have been incurred pursuant to this section, which is not incurred in any fiscal year, may be issued in subsequent years.

3. Section 20 of P.L. 1984, c. 73 (C. 27:1B-20) is amended to read as follows:

C. 27:1B-20 Transportation Trust Fund Account.

20. There is hereby established in the General Fund an account entitled "Transportation Trust Fund Account." During the fiscal year beginning July 1, 1984 and during each succeeding fiscal year in which the authority has bonds, notes or other obligations outstanding, the treasurer shall credit to this account:

a. Commencing with the last business day of August 1984 and on the last business day of each succeeding calendar month, an amount not less than \$7,333,333.00, provided that if the effective date of the act shall be later than July 1984, the initial credit shall be an amount equal to that which would have been credited to the account had the act become effective on July 1, 1984, and further provided that the amount credited shall be an amount equivalent to the revenue derived from \$0.025 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than \$88,000,000.00;

b. In addition to the amount credited in subsection a. of this section, for the fiscal year beginning July 1, 1988 and for each fiscal year thereafter, commencing with the last business day of August 1988 and on the last business day of each succeeding calendar month, an amount equivalent to the revenue derived from \$0.045 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter

39 of Title 54 of the Revised Statutes, provided, however, such amount during any month shall not be less than \$14,812,500.00, nor less than \$177,750,000.00 during any fiscal year; and

c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988, the amount so credited shall not be less than \$24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S. 39:3-20 made by this act and from the increase of fees for motor fuels user identification markers collected pursuant to the amendment to section 10 of P.L. 1963, c. 44 (C. 54:39A-10) made by this act and from the increase in the tax on diesel fuels imposed pursuant to the amendment to R.S. 54:39-27 made by this act and by P.L. 1987, c. 460, provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than \$20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than \$30,000,000.00. No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to the authority, for its purposes as provided herein, the amounts then credited to the Transportation Trust Fund Account, provided that the payments to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of the act.

4. Section 21 of P.L. 1984, c. 73 (C. 27:1B-21) is amended to read as follows:

C. 27:1B-21 Special Transportation Fund.

21. a. There is hereby established a separate fund entitled "Special Transportation Fund." This fund shall be maintained by the State Treasurer and may be held in depositories as may be selected by the treasurer and invested and reinvested as other funds in the custody of the treasurer, in the manner provided by law. The commissioner may from time to time (but not more frequently than monthly) certify to the authority an amount necessary to fund payments made, or anticipated to be made by or on behalf of the department, from appropriations established for or made to the department

from revenues or other funds of the authority. The commissioner's certification shall be deemed conclusive for purposes of the act. The authority shall, within 15 days of receipt of the certificate, transfer from available funds of the authority to the treasurer for deposit in the Special Transportation Fund the amount certified by the commissioner, provided that all funds transferred shall only be expended by the department by project pursuant to appropriations made from time to time by the Legislature for the purposes of the act.

b. The department shall not expend any money except as appropriated by law. Commencing with appropriations for the fiscal years beginning on July 1, 1988, the department shall not expend any funds except as are appropriated by specific projects identified by a description of the projects, the county or counties within which they are located, and amounts to be expended on each project, in the annual appropriations act.

c. No funds appropriated, authorized or expended pursuant to this act shall be used to finance the resurfacing of highways by department personnel, where that resurfacing would require the use of more than 150,000 tons of bituminous concrete for that purpose in any calendar year, except that the commissioner may waive this provision when he determines the existence of emergency conditions requiring the use of department personnel for the resurfacing of highways, after the department has effectively reached the 150,000 ton limit.

d. In order to provide the department with flexibility in administering the specific appropriations by project identified in the annual appropriations act, the commissioner may transfer a part of any item to any other item subject to the approval of the Director of the Division of Budget and Accounting and of the Joint Budget Oversight Committee or its successor. Upon approval of the director and the committee, the transfer shall take effect.

5. Section 22 of P.L. 1984, c. 73 (C. 27:1B-22) is amended to read as follows:

C. 27:1B-22 Master plan; annual reports.

22. To the end that the transportation system of the State shall be planned in an orderly and efficient manner and that the Legislature shall be advised of the nature and extent of public highways, public transportation projects and other transportation projects contemplated to be financed under this act, the department shall submit a master plan, as provided in subsection (a) of section 5 of P.L. 1966,

c. 301 (C. 27:1A-5). Notwithstanding the provisions of that act, the plan shall be for a period of five years and shall be submitted to the Commission on Capital Budgeting and Planning, the Chairman of the Senate Transportation and Communications Committee and the Chairman of the Assembly Transportation, Communications and High Technology Committee, or their successors, and the Legislative Budget and Finance Officer, on or before December 15, 1984, and at five year intervals thereafter.

On or before March 1 of each year, the commissioner shall submit a report of proposed projects, including but not limited to public highways, to be financed in an ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State and local projects, and the amount estimated to be expended on each project and also including a financial plan designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor. The financial plan shall set forth a complete operating and financial statement covering the authority's proposed operations during the ensuing fiscal year, including amounts of income from all sources, including but not limited to the proceeds of bonds, notes or other obligations to be issued, as well as interest earned. In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the department anticipates to obligate during the ensuing fiscal year for any future expenditures. The report shall be submitted to the Senate and General Assembly. Within 30 days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects it disapproves or which it is of the opinion should be modified or added to or any additional or alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within 10 days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

6. Section 25 of P.L. 1984, c. 73 (C. 27:1B-25) is amended to read as follows:

C. 27:1B-25 County, municipal projects.

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L. 1946, c. 301 (C. 27:15A-1 et seq.), the

commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. §103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of this section, allocate at his discretion State aid to municipalities for public highways under their jurisdiction and for emergency transportation projects, except that the amount to be appropriated for this program shall be 15% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of

this section, allocate State aid to municipalities for public highways under their jurisdiction, except that the amount to be appropriated for this purpose shall be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{P_c}{P_s} + \frac{C_m}{S_m}$$

where, DF equals the distribution factor

P_c equals county population

P_s equals State population

C_m equals municipal road mileage within the county

S_m equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least \$30,000,000.00 in each fiscal year for the purposes provided herein and in subsections b. and c. of this section. (1) Of that appropriation, the commissioner shall allocate \$5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L. 1978, c. 14 (C. 52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L. 1978, c. 14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of subsections b. and c. of this section.

7. R.S. 54:39-27 is amended to read as follows:

Motor fuel tax.

54:39-27. a. Every distributor and gasoline jobber shall, on or before the 22nd day of each month, render a report to the Director of the Division of Taxation, stating the number of gallons of fuel sold

or used in this State by him during the preceding calendar month. A tax of \$0.105 per gallon on each gallon so reported, except diesel fuel and alcohol-blend motor fuel, and a tax of \$0.135 per gallon on each gallon of diesel fuel so reported, used, offered for sale, or sold for use to propel motor vehicles with diesel type engines on the public highways shall be paid by each distributor and gasoline jobber, such payment to accompany the filing of the report. The tax on each gallon of alcohol-blend motor fuel shall be paid as provided in subsection b. of this section. Such report shall contain such further information as the director may require. Under such regulations as the director may prescribe, sales of fuel and diesel fuel may be made by one licensed distributor or gasoline jobber to another licensed distributor or gasoline jobber free of such tax. If any distributor or gasoline jobber shall fail, neglect or refuse to file the report within the time prescribed by this section, the director shall note such failure, neglect or refusal upon his records, and shall estimate the sales, distribution and use of said distributor or gasoline jobber, assessing the tax thereon, adding to said tax a penalty of 20% thereof for failure, neglect or refusal to report, and such estimate shall be prima facie evidence of the true amount of tax due to the director from such distributor or gasoline jobber; provided that if a good and sufficient cause or reason is shown for such delinquency, the director may remit or waive the payment of the whole or any part of the penalty, as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes. Reports required by this section, exclusive of schedules, itemized statements and other supporting evidence annexed thereto, shall at all reasonable times be open to the public, anything contained in R.S. 54:50-8 to the contrary notwithstanding.

b. The tax per gallon on each gallon of alcohol-blend motor fuel, as defined in subsection (d) of R.S. 54:39-2, shall be imposed as follows:

(1) On and after October 1, 1985, but before January 1, 1988, the tax on alcohol-blend motor fuel shall be \$0.08 less than the rate applicable and paid on the sale or use of other fuels taxed under this section which do not contain such a blend.

(2) On and after January 1, 1988, but before January 1, 1990, the tax on alcohol-blend motor fuel shall be \$0.06 less than the rate applicable and paid on the sale or use of other fuels taxed under this section which do not contain such a blend.

(3) On and after January 1, 1990, but prior to January 1, 1992, the tax on alcohol-blend motor fuel shall be \$0.04 less than the rate

applicable and paid on the sale or use of other fuels taxed under this section which do not contain such a blend.

(4) On and after January 1, 1992, the tax on alcohol-blend motor fuel shall be at the same rate applicable and paid on the sale or use of other fuels taxed under this section which do not contain such a blend.

Any tax on alcohol-blend motor fuel imposed pursuant to this subsection shall be paid at the same time and in the same manner as the payment for the tax imposed on other fuels pursuant to subsection a. of this section.

C. 27:1B-21.1 Annual funding maximums.

8. (New section) a. Commencing with the report of the commissioner required to be submitted pursuant to section 22 of P.L. 1984, c. 73 (C. 27:1B-22) on or before March 1, 1988 for the fiscal year commencing July 1, 1988 and for the reports of the commissioner required to be submitted pursuant thereto for each of the next six fiscal years, the amount reported by the commissioner for proposed projects to be financed shall not exceed \$365,000,000.00 exclusive of federal funds for each of those fiscal years except as provided herein. If, in the discretion of the commissioner, a greater amount is determined to be necessary to meet the financing requirements for the ensuing fiscal year, the commissioner may include in a report an amount in excess of \$365,000,000.00 exclusive of federal funds; provided that in no event shall that amount be an amount greater than 105% of that \$365,000,000.00.

In any fiscal year for which an amount exceeding \$365,000,000.00 exclusive of federal funds was appropriated pursuant to subsection b. of this section, the commissioner shall report on or before March 1 of that fiscal year for the ensuing fiscal year an amount for proposed projects to be financed not greater than \$365,000,000.00 reduced by the amount in excess of \$365,000,000.00 that was appropriated in that fiscal year.

b. Commencing with the fiscal year beginning on July 1, 1988 and for each of the next six fiscal years, the total amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21 of P.L. 1984, c. 73 (C. 27:1B-21), shall not exceed \$365,000,000.00 exclusive of federal funds in any fiscal year except as provided herein. If, in any fiscal year, a greater amount is determined to be necessary to meet

the financing requirements, the amount appropriated may be in excess of \$365,000,000.00 exclusive of federal funds; provided that: (1) in no event shall there be appropriated an amount greater than 105% of that \$365,000,000.00, and provided further, that (2) the appropriation for the ensuing fiscal year shall not be greater than that \$365,000,000.00 reduced by the amount in excess of \$365,000,000.00 that was appropriated in the current fiscal year.

c. The limit on the amount reported in any fiscal year set forth in subsection a. of this section and the limit on the amount appropriated in any fiscal year set forth in subsection b. of this section shall not include any amount for salaries and other administrative expenses of the department and the authority.

9. This act shall take effect immediately except that section 7 shall take effect July 1, 1988.

Approved January 19, 1988.

JOINT RESOLUTIONS

(2017)

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION directing the Department of Health to conduct a study and make recommendations for payment of second surgical opinions under health maintenance organization contracts or policies.

WHEREAS, The Legislature finds and declares that the State has a vital interest in promoting health care, preventing unnecessary hospitalization for elective surgery and containing expenditures for medical and surgical services; and

WHEREAS, Presently, health maintenance organizations engage a limited number of health care facilities to provide health care services to their enrolled members, and a number of health care facilities such as general hospitals have closed medical and surgical staffs which limit the number of physicians available to participate in second surgical opinion programs; and

WHEREAS, The Legislature finds that the interests of public health will be best served if the needs of enrolled members and reasonably anticipated new members of health maintenance organizations for second surgical opinion services from non-health maintenance organization providers or other health maintenance organizations are provided in a reasonable and cost-effective manner which is consistent with the basic method of operation of health maintenance organizations in this State; now, therefore,

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

1. The Commissioner of the Department of Health is directed to undertake a study of the availability and extent of second surgical opinion programs under the coverage contracts or policies of all health maintenance organizations issued certificates of authority in this State, the need of enrolled members and reasonably anticipated new members for such programs, other second surgical opinion programs available through other third party health benefit systems, and make recommendations for the inclusion of second surgical opinion programs for elective surgery under the health care services offered by health maintenance organizations.

2. In carrying out the study directed by this joint resolution, the

Commissioner of the Department of Health shall consult with the Commissioner of Insurance.

3. Within six months of the effective date of this joint resolution the Commissioner of the Department of Health shall report to the Legislature and the Governor the results of this study, and may incorporate in that report any drafts of legislation that he may see fit to recommend for enactment.

4. This joint resolution shall take effect immediately.

Approved January 20, 1987.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION creating a commission to study services and programs available to hearing impaired children.

WHEREAS, There are approximately 1,800 school-age children in New Jersey who are classified by public school districts as suffering from some sort of hearing impairment; and

WHEREAS, Perhaps the greatest tragedy of deafness may be the deprivation to the child of language and communication; and

WHEREAS, For those children who live in a silent world, the danger exists that it can become a silent prison unless proper diagnosis and adequate medical and educational services and programs are made available to them; now, therefore,

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

1. That there is created a commission of 14 members, two to be appointed from the membership of the Senate by its President, no more than one of whom shall be of the same political party and two to be appointed from the membership of the General Assembly by its Speaker, no more than one of whom shall be of the same political party; six public members to be appointed by the Governor, no more than three of whom shall be of the same political party; the Director of the Division of the Deaf or his designee; the Commissioner of Education or his designee; the Commissioner of Health or his designee; and the Commissioner of Human Services or his designee. Two of the public members appointed by the Governor shall be

hearing-impaired persons and two shall be active in providing or advocating services for hearing-impaired children. 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.

2. That the Director of the Division of the Deaf shall organize the commission as soon as may be possible after the appointment of its members and the commission shall select a chairman from among its members and a secretary who need not be a member of the commission.

3. That it shall be the duty of the commission to study the services and programs currently available to hearing-impaired children. The commission shall determine if services are in fact adequate, where gaps in service may exist, and what further efforts may need to be made to ensure that hearing-impaired children are afforded every opportunity for a healthy development. The commission shall make recommendations for those remedial actions which it feels are necessary to allow hearing-impaired children to realize their full potential.

4. That 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 said purpose, and to employ 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 said purposes.

5. That the commission may meet and hold hearings 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 Governor and Legislature within 12 months following the organization of the commission, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately.

Approved February 19, 1987.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION directing the Department of Human Services to establish a task force to study and make recommendations about coordination of programs for children by community volunteer groups.

WHEREAS, The Legislature finds and declares that community volunteer groups are an important and vital force in providing programs for children throughout the State; and

WHEREAS, To effectively take advantage of these valuable resources in our communities, coordination of volunteer services would be most desirable; and

WHEREAS, The establishment of a task force within the Department of Human Services to study and make recommendations about coordinating community volunteer programs for children could lead to greater participation in these groups by children and more effective utilization of these resources across New Jersey; now, therefore,

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

1. The Commissioner of the Department of Human Services is directed to establish a five member task force to study and make recommendations about improving coordination of programs for children by community volunteer groups.

2. The task force shall consist of the Commissioner of the Department of Human Services, who shall serve as chairman, and four public members appointed by the Commissioner of Human Services who are representatives of community volunteer religious, school, service, and recreational organizations.

3. Within six months of the effective date of this joint resolution the Commissioner of Human Services shall report to the Legislature and the Governor on the recommendations of the task force.

4. This joint resolution shall take effect immediately and shall expire upon the submission by the task force of its report.

Approved March 11, 1987.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION commending the New Jersey Public Broadcasting Authority for exemplary public service on the fifteenth anniversary of its Educational Services Division and designating the academic year 1986-87 as "Public Television for Learning Year" in the State of New Jersey.

WHEREAS, The New Jersey Public Broadcasting Authority, through its Educational Services Division, has provided educational services to the citizens of this State for 15 years; and

WHEREAS, The New Jersey Public Broadcasting Authority has worked with the State Department of Education and the State Department of Higher Education to make significant contributions to the State educational community, including the students and professional staff at New Jersey's public and private schools and colleges and to State and local government agencies and to business and industry; and

WHEREAS, The New Jersey Public Broadcasting Authority has provided support for the production and acquisition of instructional and information programming which augments the priorities of the State Department of Education and the State Department of Higher Education; and

WHEREAS, The New Jersey Public Broadcasting Authority provides cost-effective educational programming and services which benefit all residents of this State; now, therefore,

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

1. The New Jersey Public Broadcasting Authority is commended for its exemplary service to the public on the 15th anniversary of its Educational Services Division.

2. The academic year 1986-87 is proclaimed as "Public Television for Learning Year" in the State of New Jersey.

3. All citizens and all public and private agencies and organizations in this State are urged to recognize "Public Television for Learning Year" by appropriate observances.

4. This joint resolution shall take effect immediately.

Approved March 16, 1987.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION creating the Rental Housing Study Commission and setting forth the functions, powers and duties thereof.

WHEREAS, Economic forces operating upon the real estate market in many parts of this State have led to a significant reduction in construction of new rental housing; and

WHEREAS, In a similar manner, economic forces have tended to accelerate the withdrawal from the market of residential rental premises, either through their conversion to condominium or cooperative ownership, or their elimination in favor of more profitable commercial uses; and

WHEREAS, Though widespread, these tendencies are especially acute in the metropolitan areas of the northeastern part of the State, where the need to retain and expand the availability of suitable rental housing is also particularly acute; and

WHEREAS, These tendencies also counteract and thwart the efforts of public agencies to implement the constitutional obligation and social necessity of assuring realistic opportunity for adequate housing to all the State's citizens, including those of low and moderate income; and

WHEREAS, It is imperative that the causes of these tendencies be fully and accurately ascertained, and that adequate and constitutionally permissible measures for averting its harmful social consequences be devised and put into effect; now, therefore,

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

1. There is hereby created a commission, to be known as the Rental Housing Study Commission. The commission shall consist of 12 members, of whom the Commissioner of the Department of Community Affairs and the Commissioner of the Department of Commerce and Economic Development shall serve *ex officio*, either in person or by delegation to such subordinate officers of their respective departments as either of them may see fit to designate for the purpose, and two citizens of the State not holding any other public office, position or employment shall be appointed by the Governor; two members of the Senate not being of the same political party and two citizens of the State not holding any other public office, position or employment shall be appointed by the President of the Senate;

and two members of the General Assembly and two citizens of the State not holding any other public office, position, or employment shall be appointed by the Speaker of the General Assembly. Citizen members shall be appointed without regard to political affiliation and on the basis of their knowledge, training and experience in the fields of housing construction, urban planning or economic development; before making these appointments the Governor, the President of the Senate and the Speaker of the General Assembly shall consult together to ensure the broadest possible representation of applicable expertise. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. Members of the commission shall serve without compensation but shall be entitled to reimbursement for actual expenses necessarily incurred in the performance of their duties as members of the commission.

3. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

4. It shall be the duty of the commission to study, ascertain and explore the causes currently operating which have led to a significant reduction in rental housing in this State; to determine the severity of the problem in the various regions of the State; and to devise and recommend measures, such as incentives and subsidies to encourage production of new rental housing, that may be taken to counteract this trend toward diminution of availability of suitable rental housing.

5. The commission, in carrying out its duties pursuant to this resolution, may call to its aid and avail itself of the services of any State, county, or municipal department, board, bureau, commission or agency that it may require and that may be available to it for that purpose, and may employ such stenographic and clerical assistance and incur such traveling and other expenses as it may deem necessary and as may be within the limits of funds appropriated or otherwise made available to it for that purpose.

6. The commission may meet and hold hearings at such place or places as it designates during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature, accompanying its report with any

legislative bills which it may desire to recommend for enactment, not later than six months following the effective date of this resolution.

7. In carrying out its duties under this joint resolution, the commission shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

8. This joint resolution shall take effect immediately and shall expire upon the submission of the report required by section 6 hereof.

Approved April 2, 1987.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION establishing a commission to conduct a study and make recommendations regarding the development and implementation of regional health enterprise zones in New Jersey.

WHEREAS, The Legislature finds and declares that the State has a vital interest in providing quality and cost effective health care programs and services to its residents; and

WHEREAS, Eliminating unnecessary duplication of services, programs and equipment; counteracting the underutilization of hospital beds, and reducing the migration of New Jersey residents to out-of-State hospitals are important concerns to health care and benefit providers throughout the State; and

WHEREAS, Alternative health care arrangements, such as regional health enterprise zones, provide incentives and opportunities for hospitals and other health care providers in a given region or designated area to provide, on a joint or shared basis, certain health care programs and services which can be economically developed and maintained, and may present opportunities to more effectively and economically provide health care to residents of this State; now, therefore,

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

1. There is established in, but not of, the State Department of Health a commission to study the development and implementation of regional health enterprise zones in New Jersey. The commission

shall consist of 21 members as follows: the Commissioners of Health, Human Services and Insurance, or their designees, who shall serve ex officio; the chairman of the Senate Institutions, Health and Welfare Committee and the chairman of the General Assembly Health and Human Resources Committee; a representative of the Statewide Health Coordinating Council and a representative of the Health Care Administration Board; the President of the University of Medicine and Dentistry of New Jersey; and 13 public members appointed by the Governor, including: a representative of the New Jersey Hospital Association; a representative of the New Jersey Medical Society; a nationally recognized authority on health care delivery systems; two chief executive officers of acute care hospitals, one in the northern portion of the State and one in the southern; a representative of the New Jersey Association of Health Care Facilities; a representative of the New Jersey Association of Non-Profit Homes for the Aging; a representative of the New Jersey State Nurses Association; a representative of the New Jersey State Chamber of Commerce; a representative of the New Jersey Business and Industry Association; a representative of Blue Cross and Blue Shield of New Jersey; a representative of the commercial insurance industry; and a representative of organized labor.

2. The commission shall organize within 30 days after the appointment of its members and shall select a chairperson from among its members and may appoint a secretary who need not be a member of the commission.

3. All appointments shall be made within 60 days after the effective date of this joint resolution. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation but shall be reimbursed for the necessary expenses incurred in the performance of their duties as members of the commission, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

4. The commission shall undertake a study of regional health enterprise zones and make recommendations regarding the development and implementation of these programs in this State and the effect that these programs would have on the diagnosis related group (DRG) system and the certificate of need process, and in providing incentives for joint ventures among health care providers.

5. a. The State Department of Health shall provide to the com-

mission such professional, stenographic and clerical personnel as the commission requires for the purposes of its study.

b. The commission is entitled to call to its assistance and avail itself of the services and assistance of such officials and employees of the State and its political subdivisions and their departments, boards, bureaus, commissions and agencies as it may require and as is available to it for its purposes and incur such traveling and other miscellaneous expenses as it deems necessary in order to perform its duties, and may expend such funds as are appropriated or otherwise made available to it for the purposes of its study.

6. The commission may meet and hold hearings at such places as it shall designate during the sessions and recesses of the Legislature. The commission shall report its findings, conclusions and recommendations to the Governor and the Legislature as soon as practicable but not later than nine months after the effective date of this joint resolution, accompanying them with any legislative bills which it may desire to recommend for adoption by the Legislature.

7. This joint resolution shall take effect immediately and shall expire on the 30th day following the commission's issuance of its report.

Approved April 24, 1987.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION calling for Pennsylvania to become a member of the Driver License Compact (P.L. 1966, c. 73; C. 39:5D-1 et seq.).

WHEREAS, The safety of the streets and highways of a state is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles and violations of these laws and ordinances endanger the safety of all persons and property; and

WHEREAS, To promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles, 27 states, including New Jersey, have joined the Driver License Compact (P.L. 1966, c. 73; C. 39:5D-1 et seq.) for the purpose of exchanging information so that all member

states will give the same effect to conduct which, if committed in the licensing state, would result in a motor vehicle violation; and

WHEREAS, The Driver License Compact requires that member states exchange information on persons convicted of driving a motor vehicle while under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug to a degree which renders that person incapable of safely driving a motor vehicle; and

WHEREAS, The neighboring Commonwealth of Pennsylvania is not a member of the Driver License Compact; now, therefore,

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

1. That the State of New Jersey calls upon the Commonwealth of Pennsylvania to become a member of the Driver License Compact.
2. That a duly authenticated copy of this resolution signed by the Governor, the President of the Senate and the Speaker of the General Assembly, and attested by the Secretary of the Senate and Clerk of the General Assembly, be transmitted forthwith to the Governor of the Commonwealth of Pennsylvania.
3. This joint resolution shall take effect immediately.

Approved April 29, 1987.

JOINT RESOLUTION No. 8

A JOINT RESOLUTION designating May, 1987 as "Children's Health Month."

WHEREAS, The State of New Jersey has a vital interest in improving the health care system for children and providing better access for those who are to be benefitted by it; and

WHEREAS, The State has initiated various programs aimed at improving the health status of children, including healthy mothers/healthy babies, the WIC program, the EPSDT and Medicaid programs, lead poisoning screening programs and the special child health services program; and

New Jersey State Library

WHEREAS, The State has been successful in its efforts to prevent childhood diseases through a mandatory school immunization program, the current thrust of which is toward education of new mothers in the hospital and the development of a reliable recall system; and

WHEREAS, While the State's child health care system is making substantial progress in improving the health of children in the State, further efforts are needed in order to ensure that every child in the State of New Jersey is provided with basic health services and it is, therefore, necessary to focus more attention on and ensure the effective coordination of the State's health services for children; now, therefore,

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

1. The month of May, 1987 is formally designated as "Children's Health Month" in the State of New Jersey.
2. The Governor, by appropriate proclamation, shall designate the month of May, 1987, as "Children's Health Month."
3. This joint resolution shall take effect immediately.

Approved May 26, 1987.

JOINT RESOLUTION No. 9

A JOINT RESOLUTION creating a commission to study the current means of transporting handicapped and special education children and to make recommendations to ensure the safety of these children.

WHEREAS, The federal Education for All Handicapped Children Act of 1975, Pub. L. 94-142 (20 U.S.C. §1401 et seq.), and various sections of Title 18A of the New Jersey Statutes require, among other things, that transportation be provided for handicapped and special education students; and

WHEREAS, At present, handicapped and special education students are transported by numerous entities subject to a wide range of federal and State regulations; and

WHEREAS, Parents of these students and other concerned citizens have raised questions about the adequacy of current safety standards and regulatory procedures; and

WHEREAS, It is the objective of the State of New Jersey to ensure that our handicapped and special education students receive the safest possible transportation; now, therefore,

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

1. There is created an 11 member commission, to be appointed as follows: two public members, who shall not be of the same political party, to be selected by the Governor; two members of the Senate, who shall not be of the same political party, selected by the President of the Senate; two members of the General Assembly, who shall not be of the same political party, selected by the Speaker of the General Assembly; the Commissioner of Education or the commissioner's designee; the Commissioner of Human Services or the commissioner's designee; the Commissioner of Health or the commissioner's designee; the Commissioner of Labor or the commissioner's designee; and the Commissioner of Transportation or the commissioner's designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. The commission shall organize as soon as its membership has been appointed and shall select a chairman from among its members and a secretary who need not be a member of the commission.

3. It shall be the duty of the commission to undertake the following:

a. Identify all federal and State regulations which affect the transportation of handicapped and special education students and determine whether any undesirable gaps or overlaps in authority exist.

b. Evaluate the suitability and adequacy of existing standards for vehicle construction, condition and inspection, including any provisions for special equipment.

c. Evaluate the suitability and adequacy of the current procedures and requirements for licensing and training transportation personnel.

d. Identify and evaluate any other factors which may affect the

safety of these students or impair our capacity to ensure that these students will receive the highest degree of transportation safety.

4. The commission shall be entitled to utilize the services of employees of any State, county or municipal department, board, bureau, commission or agency, to employ stenographic and clerical assistants and to incur traveling and other miscellaneous expenses necessary to the performance of its duties, provided these expenditures do not exceed funds appropriated, or otherwise made available, for these purposes.

5. The commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and, within one year shall report its findings and recommendations to the Governor and the Legislature, accompanying them with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately.

Approved June 24, 1987.

JOINT RESOLUTION No. 10

A JOINT RESOLUTION declaring the Firelock and Artillery Shoot at Monmouth Battlefield State Park an annual event and designating the Company of Associated Militia of Monmouth County as the official State agent for the planning and execution of this event and activities related thereto.

WHEREAS, The Company of Associated Militia of Monmouth County has conducted a Firelock and Artillery Shoot at Monmouth Battlefield State Park during the last weekend of April for the past several years; and

WHEREAS, The Company of Associated Militia of Monmouth County, a chapter of the Associated Regiments of the American Revolution, Inc., has professionally planned and executed the Firelock and Artillery Shoot to feature a competition and demonstration in the use of weapons from the early American period and to include an educational and historical encampment for the last weekend in April; and

WHEREAS, The educational and historical value to the citizens of this State of an event such as the Firelock and Artillery Shoot makes it fitting to establish the Firelock and Artillery Shoot as an annual event in the care of an experienced professional organization; now, therefore,

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

1. The Firelock and Artillery Shoot at Monmouth Battlefield State Park held by the Company of Associated Militia of Monmouth County is declared an annual event in the State of New Jersey.
2. The Company of Associated Militia of Monmouth County is designated as the official State agent for the planning and execution of this event and the activities related thereto.
3. This joint resolution shall take effect immediately.

Approved July 23, 1987.

JOINT RESOLUTION No. 11

A JOINT RESOLUTION to reconstitute the commission to study the statutes and regulations relating to the alcoholic beverage industry and amending Joint Resolution No. 4 of 1982.

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

1. There is established an Alcoholic Beverage Control Study Commission to consist of 21 members to be appointed as follows:
 - a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;
 - b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;
 - c. Six citizens of the State, to be appointed by the President of the Senate and six citizens of the State to be appointed by the Speaker of the General Assembly. Of these 12 citizens, nine shall be representatives of the alcoholic beverage industry, three shall be

representatives of the general public and no more than three appointees each of the President and the Speaker shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made; provided, however, that:

(1) In the case of the additional members authorized under the provisions of this joint resolution, two shall be appointed by the Speaker of the General Assembly and one shall be appointed by the President of the Senate.

(2) In the case of a vacancy among the members jointly appointed by the President of the Senate and the Speaker of the General Assembly which exists on or occurs after the effective date of this joint resolution, the President of the Senate and the Speaker of the General Assembly shall, in turn, beginning with the President of the Senate, appoint the successor.

(3) Whenever any member appointed by either the President of the Senate or the Speaker of the House shall vacate his position on the commission, the successor shall be appointed by the presiding officer, be it the President of the Senate or the Speaker of the General Assembly, who appointed the citizen who vacated his position on the commission.

f. After the effective date of this joint resolution, any citizen member who shall miss three consecutive meetings of the commission without good cause shall be deemed to have forfeited and vacated his membership on the commission. Any vacancy so created in the membership shall be filled in the manner prescribed in subsection e. of this section.

2. The commission to study the statutes and regulations concerning the alcoholic beverage industry, created by Joint Resolution No. 4 of 1982, and reconstituted by Joint Resolution No. 7 of 1984, is reconstituted with the same membership, except as provided in sec-

tion 1 of this joint resolution and the same powers and duties as heretofore provided.

3. The commission shall make recommendations which it deems proper and shall prepare and submit to the Legislature and the Governor reports which it deems necessary, accompanying its recommendations and reports with any legislative bills which it may desire to recommend for adoption by the Legislature.

In addition to the recommendations and reports which may be made by the commission during the course of its term until its expiration on December 31, 1989, the commission shall submit an annual report, no later than December 31 of each year, to the President of the Senate, the Speaker of the General Assembly, and the Governor, describing the activities and accomplishments of the commission.

4. This joint resolution shall take effect immediately and shall expire on December 31, 1989.

Approved January 14, 1988.

**PROPOSED AMENDMENT
REJECTED IN 1987
TO THE 1947 CONSTITUTION**

(2037)

Proposed Amendment Rejected in 1987 to the 1947 Constitution

ARTICLE VII, SECTION II, PARAGRAPH 2

Amend Article VII, Section II, paragraph 2, of the Constitution to read as follows:

2. County clerks, surrogates and sheriffs shall be elected by the people of their respective counties at general elections. The term of office of county clerks, surrogates and sheriffs shall be five years. Whenever a vacancy shall occur in any such office it shall be filled in the manner to be provided by law.

Rejected November 3, 1987.

EXECUTIVE ORDERS

(2041)

Executive Orders

EXECUTIVE ORDER No. 157

WHEREAS, Severe weather conditions, including snow, heavy rains, winds, and high tides, have the potential for serious and substantial flooding, hazardous road conditions, and threaten life and property; and

WHEREAS, Wind-caused snowdrifts throughout the State make it difficult or impossible for citizens to obtain the necessities of life as well as essential services, such as fire, police and first aid; and

WHEREAS, These weather conditions pose a threat and constitute a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of more than one municipality and county of this State; and which is in some parts of the State, and may become in other parts of the State, too large in scope to be handled in its entirety by the normal municipal operating services; and

WHEREAS, Also according to the most recent weather reports, travel conditions across the entire State are expected to worsen throughout the entire day and early evening; 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 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 limited State of Emergency presently exists throughout this State.

In accordance with the Laws of 1942, Chapter 251, as supplemented and amended, I do hereby promulgate and declare the following regulations which shall be in addition to all other laws of the State of New Jersey, to be in effect across the entire State until such time as it is declared by me that an emergency no longer exists:

1. Non-essential vehicles are restricted and discouraged from using the State's highways.

2. The New Jersey State Police shall have the authority to remove all abandoned or parked vehicles from State highways, and to take all other actions necessary to secure the health, welfare and safety of the people of the State of New Jersey during this limited State of Emergency.

3. The New Jersey National Guard is activated to the extent necessary and shall work in cooperation with and shall perform such support missions as the Superintendent shall or will require to help ensure the preservation of the health, safety and welfare of the people of the State of New Jersey during this limited State of Emergency.

4. Citizens are encouraged to stay tuned to public broadcasting stations for further announcements relating to the storm emergency, should they be necessary.

Issued January 22, 1987.

EXECUTIVE ORDER No. 158

WHEREAS, Executive Order No. 157, declaring a limited State of Emergency in the State of New Jersey, was issued on January 22, 1987 because of severe weather conditions; and

WHEREAS, The severity of the weather conditions necessitating the declaration of a State of Emergency has eased;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, announce that the State of Emergency is hereby terminated effective 9:10 a.m. on January 23, 1987, and I do hereby ORDER and DIRECT that Executive Order No. 157 and any regulations promulgated and adopted thereunder shall be null and void.

It is urged, however, that motorists continue to use discretion and caution in traveling, as the main roads, while clear, may be slippery.

I wish to express my gratitude to the people of New Jersey for the manner in which they cooperated during this limited State of Emergency, and to law enforcement and emergency response personnel for their untiring efforts.

Issued January 23, 1987.

EXECUTIVE ORDER No. 159

WHEREAS, Severe weather conditions, including snow, heavy rains, winds, and high tides, have the potential for serious and substantial flooding, hazardous road conditions, and threaten life and property; and

WHEREAS, These weather conditions pose a threat and constitute a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of more than one municipality and county of this State; and which is in some parts of the State, and may become in other parts of the State, too large in scope to be handled in its entirety by the normal municipal operating services; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (C. App. A:9-33 et seq.) and Laws of 1979, Chapter 240 (C. 38A:3-6.1) and the Laws of 1963, Chapter 109 (N.J.S. 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, Charles Hardwick, Acting Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey, do DECLARE and PROCLAIM that a limited State of Emergency presently exists throughout this State.

In accordance with the Laws of 1963, Chapter 109 (N.J.S. 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 judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare. He may authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

In accordance with the Laws of 1942, Chapter 251 as supplemented and amended, I hereby empower the Superintendent of the Division of State Police, who is the State's Director of Emergency Management, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State highway, municipal or county road, including the right to detour,

reroute or divert any or all traffic and to prevent ingress or egress from any area that he, in his discretion, deems necessary for the protection of the health, safety, and welfare of the public.

The Superintendent of the Division of State Police is further authorized and empowered to utilize all facilities owned, rented, operated, or maintained by the State of New Jersey to house and shelter persons who may need shelter during the course of this emergency.

This proclamation shall remain in effect until such time as it is determined by the Governor that an emergency no longer exists.

Issued January 26, 1987.

EXECUTIVE ORDER No. 160

WHEREAS, Executive Order No. 159, declaring a limited State of Emergency in the State of New Jersey, was issued on January 26, 1987 because of severe weather conditions; and

WHEREAS, The severity of the weather conditions necessitating the declaration of a State of Emergency has eased;

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 p.m. on January 27, 1987, and I do hereby ORDER and DIRECT that Executive Order No. 159 and any regulations promulgated and adopted thereunder shall be null and void.

It is urged, however, that motorists continue to use discretion and caution in traveling, as the main roads, while clear, may be slippery.

I wish to express my gratitude to the people of New Jersey for the manner in which they cooperated during this limited State of Emergency, and to law enforcement and emergency response personnel for their untiring efforts.

Issued January 27, 1987.

EXECUTIVE ORDER No. 161

WHEREAS, On October 17, 1986, President Reagan approved the "Super Fund Amendments and Reauthorization Act of 1986" (the Act) which contains new provisions for emergency planning and community right to know; and

WHEREAS, Among these new provisions is one which requires that the Governor of each state appoint a State Emergency Response Commission within six months of the Act's effective date; and

WHEREAS, This Commission, within nine months of the Act's effective date, is required to designate emergency planning districts so as to facilitate preparation and implementation of emergency plans; and

WHEREAS, The Act specifically authorizes the Commission to designate existing political subdivisions as emergency planning districts; and

WHEREAS, To the extent practicable, the Commission must be comprised of individuals with technical expertise in the emergency response field; and

WHEREAS, The Governor is specifically authorized to designate as the State Emergency Response Commission an existing State-sponsored or appointed emergency response commission or organization; and

WHEREAS, The "Emergency Services Act of 1972" established the Governor's Advisory Council for Emergency Services, which is comprised of the Attorney General, the Adjutant General of the Department of Defense, the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Transportation, and the President of the Board of Public Utilities; and

WHEREAS, The members of this Council, along with the Commissioner of the Department of Health and the Superintendent of the Division of State Police, who also serves as Director of the State Office of Emergency Management, have been determined to possess the necessary expertise to serve as members of the State Emergency Response Commission which must be established pursuant to the federal 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. There is hereby created a State Emergency Response Commission for the State of New Jersey, hereinafter referred to as "the Commission."

2. The Commission shall consist of the present members of the Governor's Advisory Council for Emergency Services, the Commissioner of the Department of Health and the Superintendent of the Division of State Police, who is also the Director of the State Office of Emergency Management.

3. The Commission shall perform all duties and acts prescribed by the federal "Super Fund Amendments and Reauthorization Act of 1986."

4. In designating emergency planning districts, the Commission shall utilize existing political subdivisions consistent with the provisions of C. App. A:9-30 et seq.

5. The Office of Emergency Management within the Division of State Police shall serve as the primary agency for implementing the Act's Title III, Subtitle A requirements, while the Department of Environmental Protection shall serve as the primary agency for implementing the Act's Title III, Subtitle B requirements.

6. The Commission is authorized to accept such funds as may be made available to the Commission to carry out its responsibilities pursuant to the federal Act and this Executive Order.

7. In carrying out its responsibilities pursuant to the federal Act and this Executive Order, the Commission 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 Commission and to furnish it with such information, personnel and assistance as necessary to accomplish the purpose of the federal Act and this Executive Order.

8. Nothing in this Executive Order shall restrict or otherwise limit the statutory duties, functions and powers of the Governor's Advisory Council for Emergency Services or the Right to Know Advisory Coun-

cil which was established pursuant to the "Worker and Community Right to Know Act of 1983."

9. To the extent possible, the Commission and the Right to Know Advisory Council shall coordinate their respective activities in carrying out any overlapping functions and duties.

10. This Order shall take effect immediately.

Issued February 13, 1987.

EXECUTIVE ORDER No. 162

WHEREAS, The Tax Reform Act of 1986 (the Act) has been enacted into law; and

WHEREAS, The Act provides for a new type of tax credit that may be claimed by owners of residential rental projects providing low income housing; and

WHEREAS, The Act imposes the State Housing Credit Ceiling on the aggregate amount of tax credits which may be allocated during each calendar year to such low income projects within each state; and

WHEREAS, The Act provides for the allocation of the State Housing Credit Ceiling to the Housing Credit Agency of each state; and

WHEREAS, One or more agencies and authorities of the State of New Jersey may qualify as the aforementioned Housing Credit Agency; and

WHEREAS, The Governor is delegated the authority by the Act to direct the allocation of the State Housing Credit Ceiling to the state agency or authority deemed most appropriate to distribute such credit; and

WHEREAS, A specific designation of the agency to whom the State Housing Credit Ceiling should be allocated will avoid any subsequent ambiguity concerning this matter; and

WHEREAS, In order to assure the efficient and beneficial utilization of the aforesaid tax credit under the Act, the New Jersey Housing and Mortgage Finance Agency should be designated the Housing Credit Agency for the State of New Jersey and, as such,

should be allocated all of the State Housing Credit Ceiling for the State of New Jersey in each calendar year; and

WHEREAS, The New Jersey Housing and Mortgage Finance Agency, in consultation with the New Jersey Department of Community Affairs, will develop a system for the distribution of the State Housing Credit Ceiling that provides priority consideration for projects receiving funding from state housing programs;

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. That all of the State Housing Credit Ceiling for the State of New Jersey, as determined in accordance with the Act, shall be allocated in each calendar year to the New Jersey Housing and Mortgage Finance Agency as the Housing Credit Agency for the State of New Jersey.

2. This Order shall become effective on its signing and shall remain in full force and effect until amended or rescinded by further Executive Order or statute.

Issued February 13, 1987.

EXECUTIVE ORDER No. 163

WHEREAS, Executive Order No. 65 created the Liberty State Park Advisory Commission; and

WHEREAS, The development of Liberty State Park presents an opportunity for New Jersey to create a unique urban, environmental, recreational and commercial resource for the citizens of New Jersey and the Nation; and

WHEREAS, The development of Liberty State Park should include a forum for public participation; and

WHEREAS, The development of Liberty State Park is a vital resource to Jersey City; and

WHEREAS, It has been determined necessary, fitting and proper to increase the representation of Jersey City at this time;

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 1 of Executive Order No. 65 is hereby amended as follows:

1. The commission known as the Liberty State Park Public Advisory Commission (hereinafter referred to as the "Commission") is hereby continued, to consist of 11 members to be appointed by and serve at the pleasure of the Governor. Of the 11 members, five shall be residents of counties in the State other than Hudson County, two shall be residents of Hudson County municipalities other than Jersey City, three shall be residents of Jersey City, and one shall be the mayor of Jersey City, ex officio. The terms of office will be for three years or until their successors are appointed. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds therefor.

2. This Order shall take effect immediately.

Issued February 13, 1987.

EXECUTIVE ORDER No. 164

WHEREAS, Severe weather conditions, including snow, heavy rains, winds, and high tides, have the potential for serious and substantial flooding, hazardous road conditions, and threaten life and property; and

WHEREAS, These weather conditions pose a threat and constitute a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of more than one municipality and county of this State; and which is in some parts of the State, and may become, in other parts of the State, too large in scope to be handled in its entirety by the normal municipal operating services; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (C. App. A:9-33 et seq.) and Laws of 1979, Chapter 240 (C. 38A:3-6.1) and the Laws of 1963, Chapter 109 (N.J.S. 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, John F. Russo, Acting Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey, do DECLARE and PROCLAIM that a limited State of Emergency presently exists throughout this State.

In accordance with the Laws of 1963, Chapter 109 (N.J.S. 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 judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare. He may authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

In accordance with the Laws of 1942, Chapter 251, as supplemented and amended, I hereby empower the Superintendent of the Division of State Police, who is the State's Director of Emergency Management, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State highway, municipal or county road, including the right to detour, reroute or divert any or all traffic and to prevent ingress or egress from any area that he, in his discretion, deems necessary for the protection of the health, safety, and welfare of the public.

The Superintendent of the Division of State Police is further authorized and empowered to utilize all facilities owned, rented, operated, or maintained by the State of New Jersey to house and shelter persons who may need shelter during the course of this emergency.

This proclamation shall remain in effect until such time as it is determined by the Governor that an emergency no longer exists.

Issued February 23, 1987.

EXECUTIVE ORDER No. 165

WHEREAS, Executive Order No. 164 declaring a limited State of Emergency was issued on February 23, 1987 because of severe winter weather conditions; and

WHEREAS, The severity of the weather conditions necessitating the declaration of a limited State of Emergency has ceased;

NOW, THEREFORE, I, John F. Russo, Acting Governor of the State of New Jersey, announce that the limited State of Emergency is hereby terminated, effective 2:00 p.m., February 23, 1987.

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 February 23, 1987.

EXECUTIVE ORDER No. 166

WHEREAS, The State of New Jersey has a firm commitment to providing the lowest possible electrical rates; and

WHEREAS, New Jersey's energy rates should be set at a level that will encourage to the greatest degree business activity in this State while at the same time ensure that all consumers of electricity in the State pay the lowest rates possible; and

WHEREAS, Market-based pricing methodology for calculating electrical rates is an alternate method of calculating an electrical consumer's rate; and

WHEREAS, Market-based pricing methodology would require that the costs of new construction that may be passed on to ratepayers take into account the economic value of the facility as well as other prudence factors; and

WHEREAS, By using market-based pricing methodology for setting rates the consumer would pay a value of service rate for electricity; and

WHEREAS, The market-based pricing methodology may prove to be an alternate rate calculating methodology that would result in

lower electrical rates to consumers in the State of New Jersey;
and

WHEREAS, Market-based pricing may facilitate the determination of a more stable and accurate market value of power; and

WHEREAS, The determination of an accurate market value of power can provide a basis for uniform pricing of electricity; and

WHEREAS, Uniform pricing for producers of electricity will reward efficient production of that commodity; and

WHEREAS, In order to comprehensively review and investigate the use of market-based pricing for determining electrical rates;

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 Task Force on Market-Based Pricing (hereinafter referred to as the Task Force).

2. The Task Force shall consist of the Chief of the Governor's Office of Policy and Planning, or his or her designee, who shall serve as chairperson; the President of the Board of Public Utilities, or his or her designee; the Commissioner of the Department of Commerce, or his or her designee; the Public Advocate, or his or her designee; one representative from each of the three New Jersey electric utilities; one representative of the cogeneration industry in the State of New Jersey; one representative of the overall business community in the State of New Jersey; one representative of a large industrial user of electrical power in the State of New Jersey; one representative of a recognized consumer association in the State of New Jersey; and two representatives from the general public.

3. The responsibilities and functions of the Task Force shall be to investigate and study: (1) any problems that have resulted from traditional rate-setting methodology; (2) national trends in rate-setting decisions; (3) the various methods for introducing competitive forces in electricity production; (4) the effect of market pricing on supply, reliability and rates; (5) the need to reward producers who face special obligations; and (6) pricing techniques that allow for a greater shareholder risk and return.

4. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with existing law, to coop-

erate with the Task Force and to render to it assistance to aid in the achievement of the goals set forth in this Executive Order.

5. The Task Force shall meet at least once a month, or more frequently as required, and shall immediately begin review of pertinent information in an effort to develop recommendations for a new electricity pricing system.

6. The Task Force shall render to the Governor a report of its findings and recommendations on or before October 31, 1987.

7. This Order shall take effect immediately.

Issued March 9, 1987.

EXECUTIVE ORDER No. 167

WHEREAS, Various State-administered urban programs have been established over time for the purposes of improving the quality of life in the urban centers of the State and of expanding economic opportunities to all within our cities; and

WHEREAS, It is imperative that the effectiveness of these programs be reviewed periodically; and

WHEREAS, An entity consisting of policymaking members of the Executive Branch of State government should be created to monitor the progress of State administered urban programs and be authorized to recommend to the Governor the expansion, alteration, streamlining, consolidation or termination of any State-administered urban 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 this State, do hereby ORDER and DIRECT:

1. There is hereby created the Urban Affairs Cabinet Council, hereinafter referred to as the "Council."

2. The Council shall consist of seven members, as follows: the Governor's Chief of Policy and Planning, the State Treasurer, the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Commerce and Economic Development, the Commissioner of the Department of Labor, the Com-

missioner of the Department of Human Services and the Commissioner of the Department of Transportation. A member may designate an officer or employee of the member's department to represent the member at any meeting. A designee may vote and otherwise act on behalf of the member. The Governor's Chief of Policy and Planning shall chair the Council.

3. The Council shall monitor all existing State-administered urban programs that have been created pursuant to an act of the Legislature or by order of the Governor. The Council shall periodically report to the Governor its recommendations for improving the effectiveness of existing urban programs and for creating new urban programs administered, at least in part, by the State.

4. The Council shall meet at least quarterly.

5. The Governor's Office of Policy and Planning shall supply such personnel and other assistance to the Council as it may deem necessary to discharge its responsibilities under this Order. The Council is also authorized to call upon any department, office, division or agency of the Executive Branch of State government for data, reports and any other information, personnel or assistance, as appropriate.

6. This Order shall take effect immediately.

Issued March 11, 1987.

EXECUTIVE ORDER No. 168

WHEREAS, Executive Order No. 17, signed by Governor Thomas H. Kean on October 5, 1982, created a New Jersey Advisory Council on Holocaust Education (Advisory Council) to assist and advise in the implementation of education programs on the Holocaust and genocide in the public schools; and

WHEREAS, Executive Order No. 17, as amended by Executive Order No. 87 signed by Governor Thomas H. Kean on November 28, 1984, required the Advisory Council to terminate upon the submission to the Governor of its final report no later than November 30, 1986; and

WHEREAS, The Advisory Council has submitted its final report to the Governor but has advised that further work is necessary; and

WHEREAS, The Advisory Council has provided valuable assistance to the public schools and this resource should continue to be available for public school districts which seek to enhance their curricula on the Holocaust and genocide in world history;

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 New Jersey Advisory Council on Holocaust Education shall continue in existence through and including March 31, 1990.

2. The members of the Advisory Council whose terms expired on November 30, 1986 shall be eligible to be reappointed to the Advisory Council for successor terms which shall expire on March 31, 1990.

3. The Advisory Council shall be authorized to resurvey the extent and breadth of Holocaust and genocide education being incorporated into the curricula of the school systems of the State and, upon request, to assist the State Department of Education and local educational agencies in the development and implementation of Holocaust and genocide education programs. In furtherance of this responsibility, the Advisory Council shall be authorized to contact and collaborate with existing Holocaust and genocide public or private nonprofit resource organizations and may act as a liaison concerning Holocaust and genocide education to federal and State legislators.

4. Section 1 of Executive Order No. 17 is hereby amended to read as follows:

1. There is hereby created a New Jersey Advisory Council on Holocaust Education in the public schools (the Advisory Council). The Advisory Council shall be composed of a chairperson to be appointed by the Governor; the Commissioner of Education, ex officio; the Chancellor of Higher Education, ex officio and not more than 19 public members to be appointed by the Governor. The members shall serve without compensation.

5. Sections 2 through 6 of Executive Order No. 17, as amended by Executive Order No. 87, are to remain in effect as originally intended.

6. This Order shall take effect immediately.

Issued March 31, 1987.

EXECUTIVE ORDER No. 169

WHEREAS, Severe weather conditions, including heavy rains, winds, and high tides, have created both flooding and the potential for serious and substantial flooding, hazardous road conditions, and threaten life and property; and

WHEREAS, These weather conditions pose a threat and constitute a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of more than one municipality and county of this State; and which is in some parts of the State, and may become in other parts of the State, too large in scope to be handled in its entirety by the normal municipal operating services; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (C. App. A:9-33 et seq.) and Laws of 1979, Chapter 240 (C. 38A:3-6.1) and the Laws of 1963, Chapter 109 (N.J.S. 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 limited State of Emergency presently exists in Bergen, Morris, Passaic, and Essex Counties as of April 5, 1987.

In accordance with the Laws of 1963, Chapter 109 (N.J.S. 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 judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare. He may authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

In accordance with the Laws of 1942, Chapter 251 as supplemented and amended, I hereby empower the Superintendent of the Division of State Police, who is the State's Director of Emergency Management, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State highway, municipal or county road, including the right to detour,

reroute or divert any or all traffic and to prevent ingress or egress from any area that he, in his discretion, deems necessary for the protection of the health, safety, and welfare of the public.

The Superintendent of the Division of State Police is further authorized and empowered to utilize all facilities owned, rented, operated, or maintained by the State of New Jersey to house and shelter persons who may need shelter during the course of this emergency.

This proclamation shall remain in effect until such time as it is determined by the Governor that an emergency no longer exists.

Issued April 5, 1987.

EXECUTIVE ORDER No. 170

WHEREAS, Executive Order No. 169 declaring a limited State of Emergency was issued on April 5, 1987 because of serious and substantial flooding conditions; and

WHEREAS, The severity of the weather conditions necessitating the declaration of a limited State of Emergency has ceased;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, announce that the limited State of Emergency is hereby terminated, effective 9:00 a.m., April 7, 1987.

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 April 5, 1987.

EXECUTIVE ORDER No. 171

WHEREAS, Executive Order No. 80, signed by Governor Kean on August 28, 1984, created an Executive Study Commission on Public Procurement Law (Commission) to study the efficiency, cost-effectiveness and responsiveness of the public procurement systems throughout the State; and

WHEREAS, Pursuant to Executive Order No. 130, the Commission, on December 31, 1986, is required to submit to the Governor a final report of its findings and recommendations, if any, on improving the public procurement systems in the State; and

WHEREAS, The Commission has determined that further work is necessary to complete its task of surveying and evaluating the myriad of Statewide procurement provisions;

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 Commission shall continue in existence until October 31, 1987.
2. The Commission shall submit its final recommendations to the Governor at that time, or as soon thereafter as practicable.
3. The current members of the Commission shall continue to serve in their present capacity until October 31, 1987.
4. This Order shall take effect immediately.

Issued May 8, 1987.

EXECUTIVE ORDER No. 172

WHEREAS, The New Jersey Turnpike Authority was created by the New Jersey Turnpike Authority Act of 1948 (P.L. 1948, c. 454) as an autonomous instrumentality of the State exercising public and essential governmental functions in the construction, operation and maintenance of the revenue-financed facility known as the New Jersey Turnpike; and

WHEREAS, The New Jersey Highway Authority was created by the New Jersey Highway Authority Act (P.L. 1952, c. 16) as an autonomous instrumentality of the State exercising public and essential governmental functions in the construction, operation and maintenance of the revenue-financed facility known as the Garden State Parkway; and

WHEREAS, The New Jersey Expressway Authority was created by the New Jersey Expressway Authority Act (P.L. 1962, c. 10) as an autonomous instrumentality of the State exercising public and

essential governmental functions in the construction, operation and maintenance of the revenue-financed facility known as the Atlantic City Expressway; and

WHEREAS, The Governor is charged with the responsibility of safeguarding the public interest pursuant to the enabling legislation creating these Authorities which states that each Authority action shall not take effect until the Governor has reviewed and approved such proposed action; and

WHEREAS, The expansion of these highways and incidental subordinate operations may have impact upon important legitimate local interests which must be given due regard and fairly considered by those Authorities charged with the responsibility of effectuating the public objective in a reasonable fashion; and

WHEREAS, There exists the need to balance the best interests of the entire State, for which the concept of these transportation facilities was designed, with the concerns of those local governmental authorities and private individuals potentially impacted by a proposed project; and

WHEREAS, In recognition of the vital importance of public input to the implementation of transportation projects so as to identify community values and concerns with respect to the nature of the alternatives and the concerns and constraints that need to be accounted for in order to safeguard the public interest; and

WHEREAS, To assure that potential adverse effects and local concerns relating to any proposed project on these highways have been fully considered in the development of such project, and that the final decisions on the project are made in the best overall public interest; taking into consideration the need for fast, safe and efficient transportation and attendant services, and the cost of minimizing such adverse effects on communities and natural resources and the disruption of community cohesion and aesthetic values;

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. Within forty-five (45) days from the date of this Executive Order, the New Jersey Turnpike Authority, the New Jersey Highway Authority and the New Jersey Expressway Authority shall adopt, by

formal resolution of their Boards, a policy and implementing procedures to ensure the provision of comprehensive information as well as the opportunity for maximum public comment as part of the project development process for Authority highway projects.

2. The policy and procedures for public participation shall, at a minimum, provide mechanisms for:

a. Adequate public notice to advise of a proposed project that is not an emergency or routine maintenance project; and

b. A forum which permits the Authority to make a public presentation of its plans and which allows those affected to adequately voice their opinions, recommendations and suggestions in a timely manner; and

c. The Authority to evaluate and respond to all public comments as an integral part of the project development process.

Issued May 20, 1987.

EXECUTIVE ORDER No. 173

WHEREAS, The incidence of child abuse in New Jersey is a critical public concern; and

WHEREAS, Child abuse affects not only children, but the family and community as well, and is a threat to the future productive capacity and enlightened citizenship of its victims; and

WHEREAS, By Executive Order No. 51 there was created a Governor's Task Force on Child Abuse (the "Task Force") with a mandate to serve until January 1, 1985; and

WHEREAS, Executive Order No. 110 reinstated the Task Force and changed its title to the Governor's Task Force on Child Abuse and Neglect; and

WHEREAS, The members of the Task Force have addressed with dedication the problem of child abuse and neglect within the State, initiated preventative programs, and endeavored to educate the public as to the serious social problem affecting the lives and well-being of the children of our State; and

WHEREAS, Executive Order No. 110 expired on January 1, 1987; and

WHEREAS, There continues to be a need for the Task Force to address the areas of community education and public awareness, community support and protection;

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 Task Force on Child Abuse and Neglect is hereby reinstated and shall continue in existence until December 31, 1989.

2. The powers and responsibilities of the Task Force pursuant to Executive Order No. 51 and Executive Order No. 110 are continued in full force and effect.

a. The Task Force shall consist of no more than 15 public members appointed by the Governor. The members shall be appointed from among persons representing prosecutors' offices, police departments, physicians, hospitals, schools, civic groups, public housing authorities, child advocacy organizations, public service agencies, and representatives from business and industry;

b. The Commissioners of the Departments of Human Services, Education, Health, Corrections, and Community Affairs; the Public Advocate; the Chief Justice of the New Jersey Supreme Court; the Attorney General and the Superintendent of the New Jersey State Police; or their designees, shall also serve on the Task Force;

c. Task Force vacancies shall be filled by appointment by the Governor for the remainder of the unexpired terms;

d. The Commissioner of the Department of Human Services or his designee shall serve as the Chairperson of the Task Force and the Governor shall designate the Co-Chairperson of the Task Force from among the public membership; and

e. The Task Force may further organize itself in any manner it deems appropriate and conduct business and enact bylaws as deemed necessary to carry forth the responsibilities of the Task Force.

3. The Governor's Task Force on Child Abuse and Neglect shall, with the assistance of local child services, health and educational agencies, the courts, business and labor unions, religious organizations, child advocacy groups, and State, county or municipal departments:

- a. Promote awareness of the extent of the problem of child abuse and neglect in New Jersey;
 - b. Mobilize citizens and community agencies in a strong, prevention-oriented, proactive effort to address child abuse and neglect;
 - c. Develop mechanisms to facilitate early detection and appropriate protective services to the victims of child abuse and neglect and their families, and foster cooperative working relationships between responsible agencies; and
 - d. Provide other information on child abuse and neglect as the Governor may request.
4. The Task Force shall meet formally at least quarterly during the life of the Task Force.
 5. The Task Force shall, in performing this duty, recognize existing mechanisms for planning and coordination of services to children at the State, county and local levels, including, but not limited to, the Youth Services Commission, the Human Services Advisory Council, the Governor's Committee on Children's Services Planning, Child Life Protection Committee, and Special County Commissions on Child Abuse and Missing Children.
 6. The Department of Human Services is authorized and directed, to the extent not inconsistent with the law, to cooperate with the Task Force and to furnish it with such staff, office space and supplies as necessary to accomplish the purpose of this Order.
 7. This Order shall take effect immediately.

Issued May 20, 1987.

EXECUTIVE ORDER No. 174

WHEREAS, The Constitution of the United States is the cornerstone for the welfare, prosperity and liberties of the people of this State and of the nation; and

WHEREAS, New Jersey was one of the original states participating in the 1787 Constitutional Convention and was the third state to ratify the Constitution, doing so unanimously on December 18, 1787; and

WHEREAS, The citizens of New Jersey played a major role in the creation and ratification of the United States Constitution; and

WHEREAS, Celebration of the historical event of the Two Hundredth Anniversary of the 1787 Constitutional Convention will provide opportunities for the people of this State to express their loyalty to the principles embodied in the Constitution and reaffirm their allegiance to this State and to the nation; and

WHEREAS, On May 30, 1986, Executive Order No. 140 was issued creating the Constitutional Bicentennial Commission to plan, promote and coordinate the commemorative programs and activities celebrating the Two Hundredth Anniversary of the United States Constitution; and

WHEREAS, Executive Order No. 140 contained a typographical error which incorrectly identified the date of New Jersey's ratification of the Constitution as December 19, 1787 rather than December 18, 1787, and recommended that the Constitutional Bicentennial Commission plan a fitting commemorative observance on December 19, 1987; and

WHEREAS, It is necessary to amend Executive Order No. 140 to insure that the commemorative celebration will be held on December 18, 1987;

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. Paragraph 4d. of Executive Order No. 140 is amended to read as follows:

d. Plan a fitting observance on December 18, 1987 to commemorate the ratification of the United States Constitution by the State of New Jersey.

2. Executive Order No. 140 is to remain in full force and effect in all other respects.

3. This Order shall take effect immediately and shall expire on December 31, 1989.

Issued June 3, 1987.

EXECUTIVE ORDER No. 175

WHEREAS, There are approximately 300,000 acres of freshwater wetlands in New Jersey which are not currently subject to a comprehensive program of uniform State regulation; and

WHEREAS, Freshwater wetlands play a vital and significant role in maintaining the quality of life through material contributions to the water quality of the State, its economy, food supply and fish and wildlife resources; and

WHEREAS, Freshwater wetlands protect subsurface and potable drinking water supplies by facilitating the purification of surface and groundwater resources; and

WHEREAS, Freshwater wetlands provide a natural means of flood control and storm damage protection through the absorption and storage of water during high runoff periods and through the reduction of flood crests, thereby protecting against the loss of life and property; and

WHEREAS, Freshwater wetlands provide essential breeding, spawning, nesting and wintering habitats for a major portion of this State's fish and wildlife, including migrating birds, endangered species and commercially and recreationally important wildlife; and

WHEREAS, Freshwater wetlands serve as a transition zone between dry land and water sources, thereby retarding soil erosion; and

WHEREAS, Freshwater wetlands play a crucial role in maintaining critical base flow to surface waters through the gradual release of stored flood waters and groundwater, particularly during drought periods; and

WHEREAS, Hundreds of thousands of acres of freshwater wetlands in New Jersey have been lost to development over the last several years; and

WHEREAS, Such continuing random and scattered development and construction, if not controlled, poses a direct threat to the great variety of rare, threatened and endangered plant and wildlife in the wetlands; and

WHEREAS, The present rapidly increasing volume of stormwater runoff associated with development and construction, if not controlled, poses a significant threat to the lives and property of

downstream residents and the integrity of the stream systems;
and

WHEREAS, The degraded water quality resulting from such storm-water runoff, if not controlled, poses a direct threat to the viability of New Jersey's multimillion dollar agricultural industry; and

WHEREAS, There is an immediate need to take strong decisive action to strictly control development and construction in New Jersey's freshwater wetlands until sound wetlands protection legislation is enacted in this State; and

WHEREAS, The failure to place some immediate State controls on development and construction in New Jersey's freshwater wetlands will result in a serious adverse impact on this State's water quality, economy, food supply and fish and wildlife resources and will exacerbate this State's already serious flooding problem; and

WHEREAS, Development and construction in areas adjacent to freshwater wetlands (buffer areas) can adversely affect such wetlands through increased runoff, sedimentation and introduction of pollutants; and

WHEREAS, Such buffer areas which support stands of native vegetation perform ecological and physical functions such as the stabilization of soil and prevention of erosion, the filtration of suspended solids (silt) to prevent their deposition on wetlands, water turbidity control, and serve as ecotones supporting species diversity and use, and as wildlife movement corridors; and

WHEREAS, The regulation of development and construction in areas which serve as buffers for regulated areas is recognized as appropriate and necessary for the protection of coastal wetlands pursuant to N.J.A.C. 7:7E-3.26 and for the protection of the Pinelands pursuant to N.J.A.C. 7:50-6.14;

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. Until the enactment of State legislation which provides adequate protection for freshwater wetlands, or 18 months from the date of this Executive Order, whichever is earlier, State approvals related

to development and construction activities in this State's freshwater wetlands shall be processed in the following manner:

(a) No State department or agency shall take final action on any application for financial assistance or for a grant, permit, certificate, license or other approval, now pending or hereafter submitted, for any development or construction activities within those areas in New Jersey which are palustrine wetlands, including those areas which are designated as such by the United States Fish and Wildlife Service National Wetlands Inventory.

(b) Palustrine wetlands means and includes all non-tidal wetlands dominated by trees, scrubs, persistent emergents, emergent mosses or lichens and all such wetlands that occur in tidal areas where salinity due to ocean-derived salt is below five parts per thousand.

(c) This Executive Order shall not apply, however, to development or construction which is currently regulated pursuant to the Coastal Area Facilities Review Act (CAFRA), the Pinelands Comprehensive Management Plan and the Hackensack Meadowlands Development Commission Master Plan.

(d) The Department of Environmental Protection shall determine whether a project for which an application has been submitted is subject to this Executive Order, and shall conduct such on-site inspections as necessary to make such determinations. These determinations shall constitute final agency action.

2. There is hereby established a Freshwater Wetlands Review Board ("the Review Board") which shall consist of the Commissioners of Environmental Protection, Commerce and Community Affairs or their designees.

3. This Review Board shall be empowered to exempt from the provisions of this Executive Order an application for financial assistance or for a grant, permit, certificate, license or other approval, now pending or hereafter submitted, for development or construction activities in a palustrine freshwater wetland if the applicant demonstrates to the Review Board that: 1) there exists a compelling public need for the development or construction activity, or 2) the denial of an exemption would result in extraordinary hardship, or 3) the development or construction activity for which an exemption is requested is consistent with the intent, goals and objectives of this Executive Order.

4. In no case shall the Review Board grant an exemption where the development or construction activity for which an exemption is requested could result in substantial impairment of a freshwater wetland.

5. If the Review Board exempts an application from the provisions of this Executive Order, that application shall be forwarded by the Review Board to the relevant State agency for review and handling by regular program staff.

6. A determination by the Review Board to grant or deny a request for an exemption from the provisions of this Executive Order shall constitute a final agency action.

7. Prior to making a final determination as to whether a request for an exemption shall be granted or denied, the Review Board may, in its discretion, refer the request to the Office of Administrative Law which shall, in such cases, conduct a hearing and issue findings, recommendations and conclusions for consideration by the Review Board.

8. The Review Board is authorized to call upon any department, office, division or agency of this State to supply data, program reports and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Executive Order.

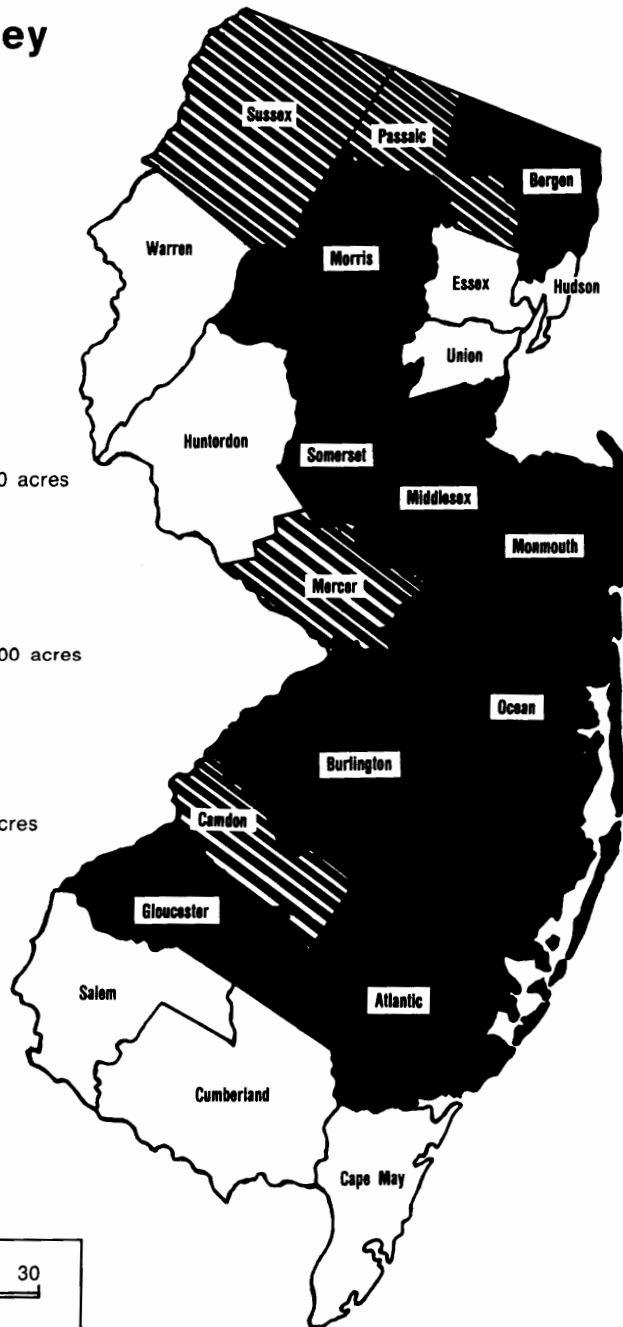
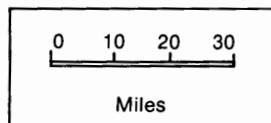
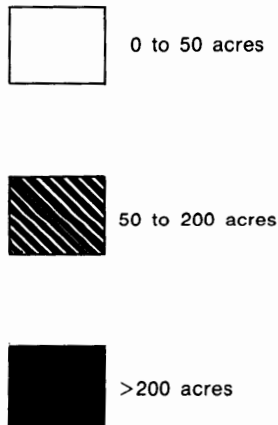
9. Each department, office, division or agency of this State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Review Board and to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Executive Order.

10. The Department of Environmental Protection, within 30 days from the date of this Executive Order, is directed to formulate criteria 1) for determining the extent of adequate freshwater wetland buffer areas and 2) for regulating development and construction activities in freshwater wetland buffer areas.

11. The Department of Environmental Protection is further directed, upon formulation of such criteria, to apply it, on a project specific basis, when deemed necessary and appropriate by the department.

12. All municipalities and counties in this State are requested and encouraged to make all of their actions consistent with the intent, goals and objectives of this Executive Order.

Issued June 8, 1987.

New Jersey**Potential
Impacted
Wetlands**

Wetlands Impacts In New Jersey

	Acreage Within Pending Applications	Total Palustrine Wetlands Acreage
Atlantic	339	15,474
Bergen	213	7,749
Burlington	583	7,064
Camden	124	2,588
Cape May	11	40,323
Cumberland	5	92,881
Essex	14	1,974
Gloucester	636	5,826
Hudson	0	9,170
Hunterdon	1	4,629
Mercer	144	1,492
Middlesex	1,831	5,678
Monmouth	499	31,838
Morris	378	7,083
Ocean	307	50,800
Passaic	61	4,181
Salem	31	22,519
Somerset	285	524
Sussex	112	7,291
Union	11	1,198
Warren	13	2,667
State Total	5,601	322,949

EXECUTIVE ORDER No. 176

WHEREAS, Executive Order No. 175, issued on June 8, 1987, declared a moratorium on the issuance of State grants, permits, certificates, licenses, applications for financial assistance, and other approvals for development and construction activities in this State's palustrine freshwater wetlands; and

WHEREAS, Executive Order No. 175 provided that this moratorium would remain effective until the enactment of State legislation which provides adequate protection for freshwater wetlands, or 18 months from June 8, 1987, whichever is earlier; and

WHEREAS, On July 1, 1987, I approved freshwater wetlands protection legislation which I have determined provides adequate protection for this State's freshwater wetlands;

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. 175 is hereby terminated.
2. This Order shall take effect immediately.

Issued July 1, 1987.

EXECUTIVE ORDER No. 177

WHEREAS, In my 1986 and 1987 State-of-the-State Addresses, I challenged the University of Medicine and Dentistry to become one of the nation's top 25 academic health sciences centers; and

WHEREAS, It is the public policy of this State that the University of Medicine and Dentistry of New Jersey provide programs of medical and dental education in the most economical and efficient manner and with a high degree of self-government; and

WHEREAS, Like successful academic health sciences centers in other states, the University of Medicine and Dentistry of New Jersey must develop strong partnerships with other health care organizations, research institutions and private corporations in order to meet my challenge with limited resources in a competitive environment; and

WHEREAS, The laws governing the University's operations are not clear concerning the provision of corporate flexibility required for the University to fully and competitively participate in such partnerships; and

WHEREAS, A solution to this issue must be found if the University is to become one of the nation's top 25 academic health centers;

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 the Laws Governing the University of Medicine and Dentistry of New Jersey (hereinafter referred to as the "Task Force").

2. The Task Force shall consist of five members, as follows: the Chancellor of Higher Education, or his designee; the Attorney General, or his designee; one representative of the University of Medicine and Dentistry; one representative of the Governor's Office; and one public member who shall be appointed by the Governor and serve as Chairman of the Task Force. Members shall serve without compensation, but the public member may be reimbursed for necessary expenses incurred in the performance of his duties subject to the availability of funds.

3. The Task Force shall be charged with the following responsibilities:

a. Determine from the University the issues and problems which have arisen or may arise related to its ability to compete effectively in the current health care market;

b. Assess the laws governing the University's operations in light of the changing, competitive conditions in the health care industry and the University's current needs;

c. Determine the degree to which current laws permit the University the corporate flexibility required to participate as a full partner in joint ventures and/or other business opportunities which will enhance its competitive status and fulfill the goals I have set for it; and

d. Recommend changes in the University's enabling legislation and/or other statutes affecting the University which are required to resolve outstanding issues.

4. The Task Force shall meet as frequently as required to discharge its duties.

5. The Task Force shall issue a final report of its findings and recommendations to the Governor on or before December 31, 1987.

6. The University of Medicine and Dentistry shall supply such personnel and other assistance to the Task Force as it may deem necessary to discharge its responsibilities under this Order. The Task Force is also authorized to call upon any department, office, division or agency of the Executive Branch of State government for any other information, personnel or assistance as appropriate.

7. This Order shall take effect immediately and shall expire upon submission of the Task Force's final report to the Governor.

Issued July 9, 1987.

EXECUTIVE ORDER No. 178

WHEREAS, On May 24, 1984, I created by Executive Order No. 72 a Governor's Council on the Prevention of Mental Retardation, a body composed of Commissioners of various State departments and concerned citizens who have distinguished records in the area of mental retardation and developmental disabilities; and

WHEREAS, The Council completed a study evaluating the services needed to prevent mental retardation and developmental disabilities and made recommendations in a report to the Administration; and

WHEREAS, As a result of that report, I signed into law on January 20, 1987 legislation (P.L. 1987, c. 5) establishing a permanent Office for Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services; and

WHEREAS, The Governor's Council on the Prevention of Mental Retardation should continue to serve as an advisory council to the Commissioner of the Department of Human Services and to the newly created Office for Prevention of Mental Retardation and Developmental Disabilities;

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 Council on the Prevention of Mental Retardation shall continue in existence until December 31, 1989, and shall be renamed the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities to more accurately reflect the Council's expanded scope of prevention activities.

a. The Council shall consist of no more than 25 public members appointed by the Governor. The members shall be appointed from among persons representing consumers, professionals in mental re-

tardation and developmental disabilities, and persons representing the private sector.

b. The Commissioners of the Departments of Human Services, Education, Health, Environmental Protection, and/or their designees, shall also serve on the Council.

c. Council vacancies shall be filled by appointment by the Governor for the remainder of the unexpired terms.

d. The Governor shall designate the Chairperson of the Council from among the members of the Council. The Chairperson of the Council shall serve at the pleasure of the Governor.

e. The Council may further organize itself in any manner it deems appropriate and enact bylaws as deemed necessary to carry forth the responsibilities of the Council.

2. The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities shall:

a. Advise the Commissioner of the Department of Human Services and the Office for Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services;

b. Mobilize citizens and community agencies to support prevention-related activities;

c. Develop mechanisms to facilitate early detection;

d. Foster cooperative working relationships among responsible agencies; and

e. Provide other information on prevention as the Governor may request.

3. The Council, in performing its charge, shall consult with existing agencies for planning, coordination and delivery of prevention services to families at the State, county and local levels.

4. The Departments of Human Services, Education, Health, and Environmental Protection are authorized and directed, to the extent consistent with the law, to cooperate with the Council and to furnish it with resources necessary to carry out its purposes under this Order.

5. This Order shall take effect immediately and shall expire on December 31, 1989.

Issued July 30, 1987.

EXECUTIVE ORDER No. 179

WHEREAS, Nursing care represents an important link in the chain of health care services vital to the health and well-being of the citizens of this State; and

WHEREAS, Nurses belong to the single largest professional discipline within the medical care delivery system; and

WHEREAS, This State, as well as the rest of the nation, is experiencing an acute nursing shortage; and

WHEREAS, The crisis in nursing vacancies has now climbed to a 17 percent vacancy rate reported in New Jersey hospitals; and

WHEREAS, This crisis cuts broadly across the entire medical care delivery system including not only the acute care industry, but also the long-term care and home health care industries;

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 Nursing Shortage Study Commission to evaluate the adequacy of the current and future supply of registered professional nurses and ancillary nursing personnel in New Jersey and to make recommendations to insure that the supply of registered professional nurses and ancillary nursing personnel will be consistent with the health care needs of the people of this State.

2. The Commission shall consist of 13 members, appointed by the Governor, as follows: (a) one member of the New Jersey Board of Nursing; (b) three registered professional nurses, including one representative from each of the following organizations: the New Jersey State Nurses Association, the New Jersey League for Nursing, and the Organization of Nurse Executives of New Jersey; and (c) nine public members including one representative from each of the following organizations: the New Jersey Hospital Association, the Home Health Agency Assembly of New Jersey, Inc., the New Jersey Association of Health Care Facilities, the New Jersey Hospice Organization, the New Jersey Association of Deans and Directors of Baccalaureate and Higher Degree Programs, the New Jersey Council of Chairpersons of Associate Degree Programs, the Association of Diploma Schools of Professional Nursing, the Licensed Practical Nurse Association of New Jersey and the New Jersey Association of Non-profit Homes for the Aging.

3. The Commission shall organize as soon as practicable after the appointment of its members. 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 Vice-Chairperson shall be selected by the Commission from among its members. Commission members shall serve without compensation.

4. The Commission may meet and hold hearings at such place or places as it shall designate and shall report its findings and recommendations to the Governor not more than 180 days following its organization.

5. The Departments of Human Services, Higher Education and Health are authorized and directed, to the extent consistent with the law, to cooperate with the Commission and supply such data, program reports and other information as may be requested by the Commission for its study. In addition, the Department of Health shall furnish the Commission with such staff, office space and supplies as necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately and shall expire 12 months after its effective date.

Issued October 6, 1987.

EXECUTIVE ORDER No. 180

WHEREAS, The State of New Jersey has been the site of numerous commemorative historical and cultural celebrations that have included: the Tall Ships of 1976, Liberation Monument, the Statue of Liberty Celebration, the Waterfront Marathon and the annual Ethnic Festival; and

WHEREAS, The State of New Jersey has made major contributions to the historical significance of this Great Nation through its strategic location, diversified geography, cultural sites and attractions; and

WHEREAS, Numerous major celebratory events are planned for the future that include local and Statewide celebrations of the United States Constitution, a celebration of the Colony of New Sweden, the National Governors' Conference, the Centennial of Ellis Island and others; and

WHEREAS, The provision and coordination of support services by the various State agencies is essential to the success of each of these official celebratory events;

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 the Special Events Coordinating Committee. The Committee shall consist of the Secretary of State or his/her designee; the Adjutant General of the Department of Defense or his/her designee; the Attorney General or his/her designee; the Commissioner of Environmental Protection or his/her designee; the Commissioner of Transportation or his/her designee; the Director of the Division of Travel and Tourism; and one representative of the Governor's Office. A chairperson is to be chosen from among the members of the Committee.

2. It shall be the responsibility and function of the Committee to coordinate the services to be provided by the various and necessary departments and agencies of State government to ensure the safe and orderly staging of special events in New Jersey.

3. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with existing law, to cooperate with the Committee and to render to it assistance to aid in the achievement of the goals set forth in this Executive Order.

4. This Order shall take effect immediately.

Issued October 26, 1987.

EXECUTIVE ORDER No. 181

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. November 27, 1987, 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 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 November 27, 1987.

Issued November 13, 1987.

EXECUTIVE ORDER No. 182

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 will 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 indicate 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. The New Jersey Bicycle Advisory Council established by Executive Order No. 101 as amended by Executive Order No. 153 shall

continue in existence until January 1, 1990, to examine the status of bicycling in New Jersey and to provide advice on implementing the recommendations made in its report within the scope of current resources and priorities.

2. The Advisory Council shall continue to 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, a representative of the Governor's Office and eight public members. The Commissioner of the Department of Transportation, or her designee, shall continue as chairperson and the Department of Transportation shall continue to serve as the lead agency.

3. This Order shall take effect immediately.

Issued November 19, 1987.

EXECUTIVE ORDER No. 183

WHEREAS, It is the public policy of this State that the University of Medicine and Dentistry of New Jersey provide programs of medical and dental education in the most economical and efficient manner and with a high degree of self-government; and

WHEREAS, Like successful academic health sciences centers in other states, the University of Medicine and Dentistry of New Jersey must develop strong partnerships with other health care organizations, research institutions and private corporations in order to meet my challenge with limited resources in a competitive environment; and

WHEREAS, The laws governing the University's operations are not clear concerning the provision of corporate flexibility required for the University to fully and competitively participate in such partnerships; and

WHEREAS, Executive Order No. 177 created a Governor's Task Force on the Laws Governing the University of Medicine and Dentistry of New Jersey; and

WHEREAS, The original deadline for the submission of the Task Force's report does not allow sufficient time for the Task Force to complete its work;

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 Task Force on the Laws Governing the University of Medicine and Dentistry of New Jersey shall continue in existence until July 1, 1988.
2. The Task Force shall submit its final recommendations to the Governor at that time, or as soon thereafter as practicable.
3. This Order shall take effect immediately.

Issued November 30, 1987.

EXECUTIVE ORDER No. 184

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. 155 of January 12, 1987 expires January 20, 1988; and

WHEREAS, The conditions specified in Executive Order No. 106 of June 19, 1981, continue to present a substantial likelihood of disaster;

NOW, THEREFORE, I, 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 Order No. 106 (Byrne) of June 19, 1981, No. 108 (Byrne) of September 11, 1981, No. 1 (Kean) of January 20, 1982, No. 8 (Kean) of May 20, 1982, No. 27 (Kean) of January 10, 1983, No. 43 (Kean) of July 15, 1983, No. 60 (Kean) of January 20, 1984, No. 78 (Kean) of July 20, 1984, No. 89 (Kean) of January 18, 1985, No. 127 (Kean) of January 17, 1986, and No. 155 (Kean) of January 12, 1987 shall remain in effect until January 20, 1989, notwithstanding any sections in them stating otherwise.
 2. This Order shall take effect immediately.
- Issued January 4, 1988.

REORGANIZATION PLAN

(2083)

Reorganization Plan
Department of Environmental Protection

NOTICE OF A PLAN FOR THE
ORGANIZATION AND COORDINATION OF
RESPONSIBILITY FOR CERTAIN HAZARDOUS AND
SOLID WASTE MATTERS WITHIN THE DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Take notice that on March 9, 1987, Governor Thomas H. Kean hereby issues the following Reorganization Plan (No. 001-1987) to provide for the increased efficiency and effectiveness of the State's hazardous and solid waste management programs by the dissolution of the Department of Environmental Protection's Division of Waste Management and establishment within the Department of the new Divisions of Hazardous Waste Management, Hazardous Site Mitigation, and Solid Waste Management.

General Statement of Purpose

At the present time, the Department of Environmental Protection oversees the myriad of complex issues involving hazardous and solid wastes in this State through its Division of Waste Management.

This Reorganization Plan is precipitated by the recognition of a need to restructure the department's approach towards management of such wastes so as to maximize its effectiveness, efficiency, and productivity. This Reorganization Plan constitutes a structural and functional recognition that publicly and privately funded hazardous waste cleanups should be managed separately. This Plan also recognizes the regulatory advantages inherent in consolidating several existing programs aimed at effectuating corrective action at hazardous waste sites by responsible parties under the regulatory supervision of the State.

In accordance with the provisions of the Executive Reorganization Act (P.L. 1969, c. 203), I find and declare that the reorganization embodied in this Plan is necessary to accomplish the purposes set forth in Section 2 of that Act and will do the following:

- (1) It will promote the better execution of the laws, the more effective management of the Executive Branch and of its agen-

cies and functions and the expeditious administration of public business;

- (2) It will increase the efficiency of the operations of the Executive to the fullest extent practicable; and
- (3) It will group, coordinate and consolidate agencies and functions of the Executive, as nearly as may be, according to major purposes.

While same are more fully described hereafter, the following delineates the primary components of this Reorganization Plan:

The Division of Waste Management within the Department of Environmental Protection is hereby dissolved and reconstituted as the Division of Hazardous Waste Management, the Division of Hazardous Site Mitigation and the Division of Solid Waste Management.

The respective new divisions shall assume the appropriate functions, powers and duties of the former Division of Waste Management. The elevation in status of these units will properly reflect the expanded scope of responsibility, particularly the tasks of the department in dealing with the areas of hazardous waste management, the cleanup of publicly-funded hazardous waste sites and the issue of solid waste management.

The Divisions of Hazardous Waste Management and Hazardous Site Mitigation shall be responsible to an Assistant Commissioner of Hazardous Waste Management. Each division shall be supervised by a director who shall perform such duties as may be prescribed by the Commissioner.

The Division of Solid Waste Management as established herein shall report to the Assistant Commissioner for Environmental Management and Control within the Department of Environmental Protection and shall be headed by a director who shall perform such duties as may be prescribed by the Commissioner.

The specific organizations, names and functions of the elements, bureaus, offices, sections and programs of these three Divisions shall be determined by the Commissioner of Environmental Protection, and may be modified thereby from time to time as the Commissioner deems appropriate in order to effectuate the purposes and provisions of this Reorganization Plan.

All transfers directed by this Reorganization Plan shall be effective pursuant to the "State Agency Transfer Act" (P.L. 1971, c. 375).

All unexpended balances of all funds appropriated or otherwise made available for functions heretofore by the Division of Waste Management are hereby transferred as follows:

- (1) To the Division of Solid Waste Management, those funds appropriated, or otherwise made available, for solid waste management purposes;
- (2) To the Division of Hazardous Waste Management, those funds appropriated, or otherwise made available, for hazardous waste management purposes; and
- (3) To the Division of Hazardous Site Mitigation, those funds appropriated, or otherwise made available, for the remediation of hazardous discharge sites.

Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Waste Management in the Department of Environmental Protection, the same shall mean and refer to the Division of Hazardous Waste Management, Hazardous Site Mitigation or Solid Waste Management, as appropriate.

All acts and parts of acts inconsistent with any provisions of this Reorganization Plan are superseded to the extent of such inconsistencies. Any provisions of this plan which conflict with federal law are null and void.

A copy of this Reorganization Plan was filed on March 9, 1987 with the Secretary of State and the Office of Administrative Law. This Plan shall become effective in 60 days on May 8, 1987 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than May 8, 1987 should the Governor establish such a later date for the effective date of the Plan by Executive Order.

Take notice that this Reorganization Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the pamphlet laws under a heading of "Reorganization Plans."

Filed March 9, 1987.

Effective May 8, 1987.

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(2089)

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- "Hispanic Women's Demonstration Resource Centers Act," \$400,000, Ch. 378.
- Home Delivered Meals Expansion Program, for senior citizens, \$1,000,000, Ch. 133.
- Human Services, Department of; family day care provider registration, \$175,000, Ch. 27.
- Human Services, Department of; hearing aid assistance; aged, disabled; from Casino Revenue Fund, \$540,000, Ch. 298.
- Human Services, Department of; training procedures regarding involuntary civil commitment, \$100,000, Ch. 116.
- Human Services Facilities Construction Fund, \$29,719,000, Ch. 23.
- Huntington's Disease, demonstration residential treatment program; establishment, Department of Health, \$300,000, Ch. 390.
- Interracial Council for Business Opportunity of New Jersey, \$100,000, Ch. 290.
- Jobs, Science and Technology Fund, \$22,800,000, Ch. 40.
- Jobs, Science and Technology Fund, from; to Commission on Science and Technology; advanced technology centers, establishment, \$8,195,000, Ch. 245.
- Jobs, Science and Technology Fund, from; to Department of Higher Education; Computer Integrated Manufacturing Center, New Jersey Institute of Technology, \$3,000,000, Ch. 317.
- Joint Committee on the Public Schools; monitoring of State-operated school districts, \$95,000, Ch. 400.

APPROPRIATIONS (Continued)

- Juvenile Delinquency Commission; developmentally disabled offenders task force, \$10,000, Ch. 235.
- Juvenile Delinquency Commission; juvenile justice system, study, \$50,000, Ch. 234.
- Labor, Department of; employer reporting of residential and work ZIP codes of employees, \$63,000, Ch. 450.
- Literacy in the Arts Task Force, \$60,000, Ch. 131.
- Local Government Education Program, Department of Community Affairs, \$90,000, Ch. 214.
- Marine Mammal Stranding Center at Brigantine, \$30,000, Ch. 72; \$95,000, Ch. 297.
- “Martin Luther King Physician-Dentist Scholarship Act of 1986,” Department of Higher Education, \$125,000, Ch. 183.
- Medicare; legal representation, claims appeals, \$235,000, Ch. 59.
- Mental Retardation and Developmental Disabilities, Office for Prevention of; Department of Human Services, \$400,000, Ch. 5.
- Mercy Center, Inc.; Division of Youth and Family Services, \$50,000, Ch. 436.
- Monmouth Arts Center, \$50,000, Ch. 273.
- “Municipal Public Safety Act of 1987,” Department of Community Affairs, \$12,000,000, Ch. 78.
- Narcotic and drug abuse control, AIDS; Department of Health, \$431,000, Ch. 175.
- National Burn Victim Foundation, Department of Health, \$750,000, Ch. 205.
- Neighborhood Housing Services Grant Fund, Department of Community Affairs, \$200,000, Ch. 50.
- New Jersey Building Authority, \$5,000,000, Ch. 203.
- New Jersey Fire Engine and Equipment Museum, Department of Environmental Protection, \$2,000,000, Ch. 437.
- New Jersey Occupational Information Coordinating Committee, \$95,000, Ch. 457.
- New Jersey Olympian Development and Recognition Study Commission, \$10,000, Ch. 372.
- “New Jersey Prompt Payment Act,” Department of the Treasury, \$250,000, Ch. 184.
- New Jersey Railroad and Transportation Museum Study Commission, \$10,000, Ch. 41.
- New Jersey State School of Conservation, Montclair State College; sewage disposal system repairs, \$150,000, Ch. 147.
- New Jersey State Trade Office in Asia, Department of Commerce and Economic Development, \$500,000, Ch. 303.

APPROPRIATIONS (Continued)

- New Jersey Wastewater Treatment Trust, \$40,000,000, Ch. 198;
\$150,000,000, Ch. 200.
- Northeast Interstate Low-Level Radioactive Waste Commission,
\$85,000, Ch. 192.
- Nuclear Waste Transport Commission, \$20,000, Ch. 12.
- Office for Sister State Relations, Department of Commerce and
Economic Development, \$150,000, Ch. 334.
- Park Theatre Performing Arts Center, \$100,000, Ch. 272.
- PENJERDEL Regional Foundation, Benjamin Franklin Bridge light-
ing project, \$250,000, Ch. 414.
- Pensions, Division of; Department of the Treasury; volunteer fire
companies, first aid, rescue squads; pension program, creation;
recommendations, \$25,000, Ch. 11.
- "Personal Attendant Services Program," Department of Human Ser-
vices, \$3,000,000, Ch. 350.
- Petroleum Overcharge Reimbursement Fund, from; to Departments
of Community Affairs, Commerce and Economic Development,
Human Services; for energy efficiency programs, \$117,000,000,
Ch. 231.
- Public Guardian, Office of the, \$300,000, Ch. 369.
- Rahway Landmarks, Inc.; restoration of Old Rahway Theatre,
\$75,000, Ch. 408.
- Recycling act; Office of Recycling, \$500,000; Statewide Mandatory
Source Separation and Recycling Program Fund, \$8,000,000,
Ch. 102.
- Retiree Retraining and Employment Demonstration Program, De-
partment of Community Affairs, \$98,500, Ch. 223.
- River Edge, borough; police headquarters, \$150,000, Ch. 110.
- Rutgers Agricultural Experiment Station, Snyder farm, \$300,000, Ch.
346.
- Rutgers, The State University; construction of Business-Science
building, Camden campus, \$4,350,000, Ch. 335.
- Salem Municipal Port Authority Assistance Fund, Department of the
Treasury, \$1,700,000, Ch. 51.
- School districts, accounting system conversion manual, \$25,000, Ch.
165.
- Self-Help and Resource Exchange, Department of Human Services,
\$150,000, Ch. 189.
- Senior citizens' center, construction, Dover township; Department of
Community Affairs, \$325,000, Ch. 229.
- Small, minority, women-owned businesses; local pilot programs,
\$95,000, Ch. 56.

APPROPRIATIONS (Continued)

- Social, health services; federal funds, various State departments, \$3,684,000, Ch. 143.
- “Special Municipal Aid Act,” Department of Community Affairs, \$100,000, Ch. 75.
- State and Local Expenditure and Revenue Policy Commission, \$500,000, Ch. 3.
- State, Department of; election expenses, special legislative, \$500,000, Ch. 253.
- State, Department of; “Farmland Preservation Bond Act of 1981,” amendments, referendum; publication, \$5,000, Ch. 240.
- State, Department of; modernization of Division of Commercial Recording, \$2,000,000, Ch. 435.
- State, Department of; “New Jersey Baseball Stadium Bond Act of 1987,” publication, \$5,000, Ch. 276.
- State, Department of; “New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987,” publication, \$5,000, Ch. 265.
- State, Department of; “New Jersey Public Purpose Buildings Construction Bond Act of 1980,” amendment; publication, \$5,000, Ch. 275.
- State Parole Board, \$95,000, Ch. 396.
- State Police, Department of Law and Public Safety; arbitration award, \$3,000,000, Ch. 142.
- Study Commission on Regulatory Efficiency, \$90,000, Ch. 130.
- Sudden Infant Death Syndrome program, Department of Health, \$150,000, Ch. 331.
- Supplemental Nutrition Assistance Contingency Fund, \$750,000, Ch. 261.
- Transportation, Department of; monorail studies, \$250,000, Ch. 262.
- Union Lake Dam; repair, restoration; Department of Environmental Protection, \$14,000,000; Department of the Treasury, \$1,000,000, Ch. 141.
- Veterans’ Affairs and Defense, Department of; \$1,000,000, Ch. 444.
- Vietnam Veterans’ Memorial Committee, \$25,000, Ch. 146.
- Violent Crimes Compensation Board; compensation to victims of product tampering, certain, \$66,000, Ch. 420.
- Wastewater Treatment Facility Matching Grant Fund, establishment, Department of Environmental Protection, \$30,000,000, Ch. 405.
- Wastewater Treatment Fund, reserve fund, \$40,000,000, Ch. 198.
- Water Conservation Fund, reappropriation from, \$18,292,613; Natural Resources Fund, from; for sewerage projects, local, \$2,729,191, Ch. 288.

APPROPRIATIONS (Continued)

- Waterloo Village, performance pavilion design; Department of Environmental Protection, \$125,000, Ch. 39.
Waterways, inland; dredging projects, \$200,000, Ch. 264.
Youth Suicide Prevention Advisory Council, Department of Human Services, \$78,000, Ch. 208.

ARTS

- "Artworks Consignment Act," C. 12A:2-329 et seq., Ch. 132.
Literacy in the Arts Task Force, established, Ch. 131.

AUTHORITIES

- County utilities authority; seven members, permitted, amends C. 40:14B-4, Ch. 213.
New Jersey Building Authority; delegation of projects, certain, permitted, C. 52:18A-78.11d et seq., Ch. 203.
New Jersey Public Broadcasting Authority, commended, J.R. 4.
New Jersey Sports and Exposition Authority; law revised, aquarium project authorized, C. 5:10-21.1a and 5:10-6.2, amends C. 5:10-5 and 5:10-6, Ch. 318.
New Jersey Transportation Trust Fund Authority; level of bonded indebtedness, increased; motor fuels tax, credited, amends C. 27:1B-9 et al., Ch. 193.
Salem Municipal Port Authority Assistance Fund, established, Ch. 51.

BANKING

- Broker-dealers, certain; employment as custodians for securities, C. 17:9A-28.1, Ch. 24.
Deposits; limitation on ownership, eliminated, amends C. 17:9A-344 et al., repeals C. 17:9A-344.1 et al., Ch. 210.
Government securities; registration, certain, required; blind pools, prohibited, amends C. 49:3-49 et al., Ch. 301.
Mutual savings bank holding companies; establishment, permitted, C. 17:9A-382 et seq., amends C. 17:9A-7 et al., repeals C. 17:9A-53.1, Ch. 201.
Performance investing fees for investment advisors, permitted, amends C. 49:3-53, Ch. 424.
Qualified banks; acquisition of underwritten State and municipal obligations, certain, permitted, C. 17:9A-28.3, Ch. 69.
Record date, reduced; capital stock, savings banks, amends C. 17:9A-96, Ch. 218.

BANKING (Continued)

- Savings and loans; oversight authority, Department of Banking, C. 17:12B-281 et seq., amends C. 17:12B-14 and 17:12B-224, repeals C. 17:12B-273 et seq., Ch. 225.
- Savings institutions; reciprocal interstate activities, permitted; Central-Atlantic Region, C. 17:12B-278 et seq., Ch. 226.
- "Secondary Mortgage Loan Act," revised; adjustable rate, closed-end; "balloon" loans, permitted, C. 17:11A-45.1 et al., amends C. 17:11A-35 et al., repeals C. 17:11A-3 et al., Ch. 230.

BONDS

- "Correctional Facilities Construction Bond Act of 1987," \$198,000,000, Ch. 178.
- "Farmland Preservation Bond Act of 1981," amendments, referendum; amends P.L. 1981, Ch. 276; Ch. 240.
- "New Jersey Baseball Stadium Bond Act of 1987," \$185,000,000, Ch. 276.
- "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," \$100,000,000, Ch. 265.
- "New Jersey Private Activity Bond Volume Cap Allocation Act," C. 49:2A-1 et seq., Ch. 393.
- "New Jersey Public Purpose Buildings Construction Bond Act of 1980," amendment; redesignation, purpose of, \$10,000,000; amends P.L. 1980, Ch. 119; Ch. 275.

CHILDREN

- Abuse, institutional; process for investigation facilitated, C. 9:6-3.1 and 9:6-8.72a, amends R.S. 9:6-1 et al., Ch. 341.
- Boating laws, violation by juvenile, not considered delinquency, amends C. 2A:4A-23, Ch. 401.
- Catastrophic Illness in Children Relief Fund, established, C. 26:2-148 et seq., Ch. 370.
- Child care, grant program; established, C. 30:5B-26 et seq., Ch. 215.
- Community volunteer programs, task force to study improving coordination of, J.R. 3.
- Criminal matters involving; prompt disposition, required, C. 2A:163-4 and 2A:163-5, Ch. 148.
- Developmentally disabled juvenile offenders, task force on; establishment by Juvenile Delinquency Commission, directed, Ch. 235.
- "Family Day Care Provider Registration Act," C. 30:5B-16 et seq., Ch. 27.
- Judgment proceeds, certain; distribution at age 18, C. 3B:15-17.1, Ch. 28.

CHILDREN (Continued)

Juvenile Delinquency Commission; name changed, membership increased, role expanded, amends C. 2A:4A-49, Ch. 234.
Newborn; level of health care given by facilities, certain, required, C. 26:2H-12.6, Ch. 49.
“New Jersey Uniform Transfers to Minors Act,” R.S. 46:38A-1 et seq., repeals C. 46:38-13 et al., Ch. 18.
Placement, out-of-home; review procedures, revised, amends C. 30:4C-52 et al., Ch. 252.
Pregnancy, Adolescent, Task Force on; established, Ch. 19.
Youth Suicide Prevention Advisory Council, reporting date extended, amends C. 30:9A-17, Ch. 208.

CIGARETTES

Distributors; licensing requirements, discount, penalties, C. 54:40A-11.1, amends C. 54:40A-4 et al., Ch. 37.
Sale of tobacco products to minors; age of minor; penalty, increased; signs required, C. 54:40A-4.1, amends N.J.S. 2A:170-51, Ch. 423.

CIVIL ACTIONS

Arbitration, tort actions; system established, C. 2A:23A-20 et seq., Ch. 329.
Immunity; first aid squad members, volunteer, certain, amends C. 2A:62A-1, Ch. 296.
Immunity, limited; sports officials, certain, C. 2A:62A-6.1, Ch. 239.
Immunity, limited; veterinarians, professional review committee members, amends C. 2A:84A-22.10, Ch. 241.
Immunity; nonprofit organizations, directors, volunteers, certain, C. 2A:53A-7.1, Ch. 87.
Joint and several liability, modified, C. 2A:15-5.4, amends C. 2A:15-5.2 and 2A:15-5.3, Ch. 325.
Liability indemnification, hazardous discharge cleanup contractors; sunset provision, extended, amends C. 58:10-23.11f, Ch. 415.
Liability; public entities, employees, actions involving multiple defendants, limited, C. 59:9-3.1 and 18A:11-6, amends N.J.S. 59:9-3, Ch. 324.
“New Jersey Alternative Procedure for Dispute Resolution Act,” C. 2A:23A-1 et seq., Ch. 54.
New Jersey Building Authority; citizen members, indemnity provided, C. 59:10-10, Ch. 360.
“New Jersey Licensed Alcoholic Beverage Server Fair Liability Act,” C. 2A:22A-1 et seq., Ch. 152.

CIVIL ACTIONS (Continued)

- Personal injury, wrongful death; collateral source rule eliminated, C. 2A:15-97, Ch. 326.
- Products liability, actions; punitive damages, C. 2A:58A-1 et seq., Ch. 197.
- Public employees; indemnification for punitive damages, certain, provided, amends N.J.S. 59:10-1 et al., Ch. 340.
- Social host liability, alcoholic beverage consumption, limited, C. 2A:15-5.5 et seq., Ch. 404.

COLLEGES AND UNIVERSITIES

- Foreign gifts, certain; disclosure, C. 18A:3-19.1 et seq., Ch. 53.
- Local Government Education Program, established, C. 52:27D-381 et seq., Ch. 214.
- “Martin Luther King Physician-Dentist Scholarship Act of 1986,” C. 18A:72J-1 et seq., Ch. 183.
- Morehouse School of Medicine; agreement for admission of minority, disadvantaged students, C. 18A:72B-25 et seq., Ch. 312.
- New Jersey Higher Education Assistance Authority; loans to students out-of-State, permitted; membership increased, amends N.J.S. 18A:72-4 et al., Ch. 187.
- New Jersey Institute of Technology, board of trustees; membership increased, residency requirement revised, amends N.J.S. 18A:64E-4, Ch. 326.
- Northwest New Jersey Regional Women’s Center, established at Centenary College, C. 18A:64K-1 et seq., Ch. 105.
- Retirement, early; incentive program for tenured faculty, C. 18A:66-193 et seq., Ch. 88.
- Rutgers University employees, retired, certain; State-paid health benefits, amends C. 52:14-17.32, Ch. 22.

COMMERCE AND ECONOMIC DEVELOPMENT

- Division of Development for Small Businesses and Women’s and Minority Businesses, established, C. 52:27H-21.7 et seq., repeals C. 52:27H-21.1 et seq., Ch. 55.
- New Jersey State Trade Office in Asia, established, C. 52:27H-22.2a et seq., Ch. 303.
- Office for Sister State Relations, established, C. 52:27H-22.4 et seq., Ch. 334.
- Small, minority, women-owned businesses; local pilot programs, financial assistance, C. 52:27H-21.25 et seq., Ch. 56.
- Urban enterprise zone businesses; applications, certain; filing dates, amends C. 52:27H-80, Ch. 135.

COMMISSIONS

- Catastrophic Illness in Children Relief Fund Commission, established, C. 26:2-148 et seq., Ch. 370.
- Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans, established, Ch. 323.
- Commission on Sex Discrimination in the Statutes; extended, membership increased, amends P.L. 1978, Ch. 68, ss. 2 and 11; Ch. 434.
- Commission on Vocational and Technical Training in Correctional Institutions, extended, amends P.L. 1985, Ch. 394; Ch. 258.
- Emergency Response System Study Commission, extended; amends P.L. 1985, Ch. 542, s. 3; Ch. 277.
- New Jersey Olympian Development and Recognition Study Commission; extended, membership increased, amends P.L. 1986, Ch. 108, ss. 2 and 8; Ch. 372.
- New Jersey Public Employment Relations Commission; compensation rate, increased, amends C. 34:13A-5.2, Ch. 456.
- New Jersey Racing Commission, membership increased, amends C. 5:5-23, Ch. 413.
- New Jersey Railroad and Transportation Museum Study Commission, created, Ch. 41.
- Nuclear Waste Transport Commission, established, C. 27:5H-1 et seq., Ch. 12.
- Passaic Valley Sewerage Commission; board of commissioners, salary increase, amends R.S. 58:14-4, Ch. 337.
- Rental Housing Study Commission, established, J.R. 5.
- State and Local Expenditure and Revenue Policy Commission; membership, increased; reporting date extended, amends P.L. 1984, Ch. 213, ss. 1 and 5; Ch. 3.
- Study Commission on Regulatory Efficiency, established, Ch. 130.
- Women Veterans, Advisory Commission on; established, Ch. 194.

COMMUNICATIONS

- Cable television companies; additional charge to consumer for use of auxiliary equipment, prohibited, C. 48:5A-11.4 et seq., amends C. 48:5A-3, Ch. 395.
- Cable television service; credit or rebate to subscriber for disruption, certain, C. 48:5A-11a, Ch. 422.

CONFLICTS OF INTEREST

- Law revised, amends title of P.L. 1971, Ch. 182; C. 52:13D-13 et al., Ch. 432.

CONSTITUTION, STATE

Sheriffs, extension of terms to five years; proposed amendment of Art. VII, Sec. II, para. 2, rejected.

CONSUMER AFFAIRS

Health club services, sales of, regulated, C. 56:8-39 et seq., Ch. 238.

CORPORATIONS

Director, officer liability, certain; limits, amends N.J.S. 14A:2-7 et al., Ch. 35.

“New Jersey Shareholders’ Protection Act,” applicability, amends C. 14A:10A-3 et al., Ch. 380.

CORRECTIONS

“Correctional Facilities Construction Bond Act of 1987,” \$198,000,000, Ch. 178.

Facilities, certain; names changed, C. 30:1B-8.1 and 30:1B-8.2, amends R.S. 30:1-7 and C. 30:1B-8, Ch. 304.

Parolees; apprehension, certain, authorized, amends C. 30:4-123.62, Ch. 108.

State Parole Board, additional members, amends C. 30:4-123.47, Ch. 396.

COUNTIES

Appropriations, health, welfare programs; limit removed, amends C. 40:23-8.28, Ch. 162.

Budgets; “cap” law, revised, amends C. 40A:4-45.2 et al., repeals C. 40A:4-45.5 et al., Ch. 74.

Burial expenses; assumed for indigents, certain, C. 40A:9-49.1, Ch. 67.

“County Historical Commission Act,” C. 40:33B-1 et seq., Ch. 255.

Farm loan program, low interest, authorized; third-class counties, C. 40:23-12.1 et seq., Ch. 34.

Freeholder boards; structural changes, authorized, C. 40:20-1.2 et al., amends R.S. 40:20-1 et al., Ch. 236.

“Local Authorities Fiscal Control Law,” revised, amends C. 40A:5A-3 et al., Ch. 319.

Property; conveyance to nonprofit organizations, certain, amends C. 40A:12-21, Ch. 84.

Sheriff’s investigators; appointment, unclassified service, C. 40A:9-117a, amends N.J.S. 11A:3-5, Ch. 113.

COURTS

Family part, Superior Court; study, mandated, Ch. 233.
Interest rate; pecuniary devises, workers' compensation payments;
 formula provided, amends N.J.S. 3B:23-11 and R.S. 34:15-28,
 Ch. 126.
Juvenile-family crisis intervention units; study, mandated, Ch. 232.
Motor vehicle accidents; information, certain, furnishing to municipal
 judge and victim, required, C. 39:5-51 and 39:5-52, Ch. 307.
Motor vehicle violations; failure to appear, costs \$10, amends N.J.S.
 22A:3-4, Ch. 114.
Superior Court, judges; Atlantic County, two additional, amends
 N.J.S. 2A:2-1, Ch. 219.
Testimonial privilege for victim counselors, C. 2A:84A-22.13 et seq.,
 amends C. 52:4B-11, repeals C. 2A:84A-22.11 et seq., Ch. 169.

CRIMES

Child victim, matters involving; prompt disposition, required, C.
 2A:163-4 and 2A:163-5, Ch. 148.
"Comprehensive Drug Reform Act of 1987," law revised, N.J.S.
 2C:35-1 et al., repeals C. 24:21-19 et al., Ch. 106.
False, facsimile bombs; placement, third degree crimes, amends
 N.J.S. 2C:33-3, Ch. 6.
Force; justifiable use, certain circumstances, amends N.J.S. 2C:3-4
 et al., Ch. 120.
Knives, certain, sales; crimes of fourth degree, C. 2C:39-9.1, amends
 N.J.S. 2C:39-1 et al., Ch. 228.
Police badge transfer, certain; disorderly persons offense, C.
 2C:21-2.2, Ch. 29.
Product tampering, certain; crime of fourth degree, C. 2C:40-16 and
 2C:40-17, Ch. 421.
Representation of indigent clients by public defenders, eligibility
 revised, C. 2A:158A-15.1 and 2A:158A-15.2, amends C.
 2A:158A-2 et al., Ch. 170.
Sexual assault victims; information on rape crisis centers, required,
 amends C. 52:4B-22, Ch. 327.
Victims, product tampering, certain; damages from Violent Crimes
 Compensation Board, permitted, amends C. 52:4B-11, Ch. 420.

DOMESTIC RELATIONS

Advisory Council on Domestic Violence; membership increased,
 duties, amends C. 30:14-4, Ch. 103.
Child support; lien, priority, amends N.J.S. 2A:34-24, Ch. 109.

DOMESTIC RELATIONS (Continued)

Domestic violence; law enforcement procedures, revised, C. 2C:25-15.1, amends C. 2C:25-5 et al., Ch. 356.
Visitation rights; siblings of minor children, permitted; amends title of P.L. 1971, Ch. 420; and C. 9:2-7.1, Ch. 363.

DRUGS

"Comprehensive Drug Reform Act of 1987," law revised, N.J.S. 2C:35-1 et al., repeals C. 24:21-19 et al., Ch. 106.
Curriculum on nature and effects of; for public schools, provided, C. 18A:40A-1 et seq., repeals N.J.S. 18A:26-8 et al., Ch. 389.
Distribution on school property, penalties, C. 2C:35-7, Ch. 101.
Treatment programs in public schools, established, C. 18A:40A-8 et seq., repeals C. 18A:4-28.10 et al., Ch. 387.

ELECTIONS

Board of State Canvassers; membership, meeting times, changed, amends R.S. 19:6-27 et al., Ch. 338.
District boards; members' compensation, increased; training, required, amends R.S. 19:45-2 et al., Ch. 151.
Legislative, special; State payment of expenses, amends C. 19:45-1.1, Ch. 253.

ENERGY

Department abolished, functions transferred, C. 52:27F-4.1 et al., amends C. 52:27H-2 et seq., repeals C. 52:27F-1 et al., Ch. 365.
Global Landfill, Sommers Brothers dump site; health study, required, Ch. 368.
Petroleum Overcharge Reimbursement Fund, established, C. 52:18A-209 et seq., Ch. 231.

ENVIRONMENT

Barneget Bay Study Group, Department of Environmental Protection, Ch. 397.
"Freshwater Wetlands Protection Act," C. 13:9B-1 et seq., amends C. 58:10A-5 et al., Ch. 156.
Global Landfill, Sommers Brothers dump site; health study, required, Ch. 368.
Hazardous discharge cleanup contractors, liability indemnification; sunset provision, extended, amends C. 58:10-23.11f, Ch. 415.
Hazardous material discharge training program for municipal, county officials; established, C. 13:1K-33 et seq., Ch. 220.

ENVIRONMENT (Continued)

- Hazardous substances; cleanup, removal, certain; liability limited, C. 2A:58B-1 and 2A:58B-2, Ch. 77.
- "Municipal and County Flood Control Financing Act," N.J.S. 40A:27-1 et seq., repeals R.S. 40:69-1 et al., Ch. 179.
- "New Jersey Statewide Mandatory Source Separation and Recycling Act"; State Recycling Plan, revised, expanded, C. 13:1E-99.11 et al., amends C. 40:55D-2 et al., Ch. 102.
- New Jersey Wastewater Treatment Trust; chairman, term extended, reappointment authorized, amends C. 58:11B-4, Ch. 459.
- New Jersey Wastewater Treatment Trust; loans to local governments, authorized, Ch. 199.
- Nuclear Waste Transport Commission, established, C. 27:5H-1 et seq., Ch. 12.
- "Regional Low-Level Radioactive Waste Disposal Facility Siting Act," C. 13:1E-177 et seq., Ch. 333.
- Sanitary landfills; self-insurance funds within escrow accounts for closing costs, permitted, amends C. 13:1E-102 and 13:1E-109, Ch. 347.
- Sewerage projects, local; Wastewater Treatment Facility Matching Grant Fund, established, Ch. 405.
- "Solid Waste Management Act," rewards for reporting violations, C. 13:1E-9.2, amends C. 13:1E-9, Ch. 158.
- Solid waste transfer stations; economic benefit to host municipality, permitted, C. 13:1E-28.1, amends C. 13:1E-3 and 40A:4-45.32, Ch. 449.
- "Solid Waste Utility Control Act of 1970," penalties increased, amends C. 48:13A-12, Ch. 149.
- Tidelands Resource Council; position of vice-chairman, established, amends C. 13:1B-10, Ch. 438.

ESTATES

- Minors; judgment proceeds, certain; distribution at age 18, C. 3B:15-17.1, Ch. 28.
- "New Jersey Uniform Transfers to Minors Act," R.S. 46:38A-1 et seq., repeals C. 46:38-13 et al., Ch. 18.

EXECUTIVE ORDERS

- Constitutional Bicentennial Commission, commemorative observance date corrected, No. 174.
- Executive Study Commission on Public Procurement Law, continued, No. 171.

EXECUTIVE ORDERS (Continued)

Freshwater wetlands, certain; development approval moratorium, No. 175; terminated, No. 176.

Governor's Council on the Prevention of Mental Retardation, continued; renamed Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities, No. 178.

Governor's Task Force on Child Abuse and Neglect, reinstated, No. 173.

Governor's Task Force on the Laws Governing the University of Medicine and Dentistry of New Jersey, created, No. 177; continued, No. 183.

Liberty State Park Public Advisory Commission, continued, No. 163.

New Jersey Advisory Council on Holocaust Education, continued, No. 168.

New Jersey Bicycle Advisory Council, continued, No. 182.

New Jersey Housing and Mortgage Finance Agency, designated Housing Credit Agency for the State, No. 162.

New Jersey Turnpike, Highway, Expressway authorities; adoption of public participation policies and procedures, No. 172.

Nursing Shortage Study Commission, created, No. 179.

Special Events Coordinating Committee, created, No. 180.

State Emergency Response Commission, created, No. 161.

State government employees; holiday, day after Thanksgiving, No. 181.

State of emergency, limited; severe weather conditions; Bergen, Essex, Morris, Passaic counties, No. 169; terminated, No. 170.

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- County, municipal contribution maximum, increased, amends R.S. 40:5-2, Ch. 31.
- Marine equipment, certain; registration fee exemption, C. 12:7-34.6a, Ch. 9.
- Volunteer Emergency Service Organization Loan Fund, established, C. 52:27D-361 et seq., Ch. 8.

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- Killifish; licensing requirement, reduced, amends C. 23:5-24.2, Ch. 68.
- Striped bass; restrictions on taking, certain, amends C. 23:5-45.1, Ch. 416.
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- Bottled water; periodic potability testing, required, C. 24:12-8 et seq., amends R.S. 24:12-5, Ch. 227.
- Dairy products; sale of certified, prohibited, amends C. 26:1A-7 and 24:10-57.17, repeals R.S. 24:10-74 et seq., Ch. 302.

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- "Casino Control Act," technical corrections, amends C. 5:12-1 et al., repeals C. 5:12-47.1, Ch. 410.
- Casino Control Commission, Division of Gaming Enforcement; powers, duties, employment regulations, certain, changed, amends C. 5:12-54 et al., Ch. 354.
- Casino employee, casino hotel employee, restricted casino areas; definitions revised, C. 5:12-43.1, amends C. 5:12-7 and 5:12-8, Ch. 353.
- Casino-hotels; facility requirements, revised, amends C. 5:12-83 and 5:12-84, Ch. 352.
- Casinos; affirmative action contracts, set-asides for small, minority, women's businesses, C. 5:12-187.1, amends C. 5:12-185 et al., Ch. 137.
- Casinos; cash transactions, certain, reporting requirement, C. 5:12-101.1 et seq., Ch. 419.
- Casinos; interim authorization, procedure, established, C. 5:12-95.12 et seq., amends C. 5:12-1 et al., repeals C. 5:12-137, Ch. 409.

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- Casinos; junkets, complimentary services, credit revised, amends C. 5:12-29 et al., Ch. 426.
- Casinos; licensure, requirements; regulations, certain; revised, amends C. 5:12-9 et al., Ch. 355.
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- Buildings, public, certain; facilities for physically handicapped, required, amends C. 52:32-5 and 52:32-6, Ch. 246.
- Commutation expenses; sheltered workshops, certain; provided, C. 34:16-51 et seq., Ch. 455.
- Developmental Center at Ancora, established, C. 30:4-177.39 et seq., amends R.S. 30:1-7, Ch. 32.
- Hearing-impaired children; commission to study services, programs for, established, J.R. 2.
- Mentally ill, community residences for; authorized, C. 30:11B-4.1 and 30:11B-4.2, amends C. 30:11B-1 et al., Ch. 112.
- "Personal Attendant Services Act," C. 30:4G-13 et seq., Ch. 350.
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- Alzheimer's Disease; training program for health care providers, established, C. 26:2M-7 and 26:2M-8, Ch. 440.
- Children's Health Month, May 1987, J.R. 8.
- Diabetes Control Program, continued, C. 26:2-138 et seq., Ch. 10.
- Health enterprise zones, development; commission to study, established, J.R. 6.
- Health maintenance organizations, study of payment for second surgical opinions, J.R. 1.
- Huntington's Disease; demonstration residential treatment program, established, Ch. 390.
- Local health planning program, established, C. 26:2H-5.2 et seq., Ch. 118.
- Newborn children; level of care by facilities, certain, required, C. 26:2H-12.6, Ch. 49.
- Nursing homes; increase licensed beds, certain, exemption from certificate of need requirement, C. 26:2H-7.2, Ch. 322.
- Pregnancy, Adolescent, Task Force on; established, Ch. 19.
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Developmental Center at Ancora, established, C. 30:4-177.39 et seq., amends R.S. 30:1-7, Ch. 32.

“Family Day Care Provider Registration Act,” C. 30:5B-16 et seq., Ch. 27.

Hearing Aid Assistance for the Aged and Disabled program, established, C. 30:4D-36 et seq., Ch. 298.

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 "Personal Attendant Services Act," C. 30:4G-13 et seq., Ch. 350.
 Pharmaceutical Assistance to the Aged and Disabled; income eligibility maximums, increased, amends C. 30:4D-21, Ch. 221.
 Psychiatric facilities; involuntary civil commitment, law revised, C. 30:4-27.1 et seq., amends R.S. 30:1-7 et al., repeals R.S. 30:4-23 et al., Ch. 116.
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 Life, health; domestic companies, officers, employees, supplemental retirement allowance, amends N.J.S. 17B:18-52, Ch. 61.
 Life; reserve requirements, reduction, amends N.J.S. 17B:19-8, Ch. 14.
 Motor vehicle; supervision of self-insured, transferred to Commissioner of Insurance, regulation, C. 39:6-50.1, amends C. 39:6-52 et al., Ch. 428.

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- “New Jersey Insurance Fraud Prevention Act”; verification requirement for medical bills, eliminated, amends C. 17:33A-6, Ch. 342.
- “New Jersey Insurance Producer Licensing Act,” C. 17:22A-1 et seq., repeals R.S. 17:22-6 et al., Ch. 293.
- “Nonprofit Corporation—Keys Amendment Facility Insurance Pooling Act,” C. 17:49A-1 et seq., Ch. 431.
- Pet health, permitted, C. 17:46D-1 and 17:46D-2, amends C. 17:30A-2, Ch. 377.
- Surplus Lines Insurance Guaranty Fund, coverage expanded, amends C. 17:22-6.72, Ch. 237.

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- Statue of Liberty Trust Fund, established; bi-state public corporation, aid to homeless from revenues, C. 32:32-1 et seq., Ch. 57.
- Waterfront Commission of New York Harbor; longshoremen’s register; periodic closing, reopening; exemption, certain, amends C. 32:23-114, Ch. 279.

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- Children, task force to study improving coordination of community volunteer programs for; established, J.R. 3.
- Children’s Health Month, May 1987, J.R. 8.
- Driver License Compact, membership of Pennsylvania requested, J.R. 7.
- Firelock and Artillery Shoot, Monmouth Battlefield State Park; annual event, declaration, J.R. 10.
- Health enterprise zones, development; commission to study, established, J.R. 6.
- Health maintenance organizations, study of payment for second surgical opinions, J.R. 1.
- Hearing-impaired children; commission to study services, programs for, established, J.R. 2.
- New Jersey Public Broadcasting Authority, commended, J.R. 4.
- Rental Housing Study Commission, established, J.R. 5.
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- Apparel industry, special task force, registration system, established, Ch. 458.
- Child labor laws, seasonal amusement, amends C. 34:2-21.1 et al., Ch. 125.
- “Construction Workers’ Fringe Benefit Security Act,” C. 34:11A-1 et seq., Ch. 150.
- High voltage lines; penalties for certain activities, increased, amends C. 34:6-47.1 et al., Ch. 124.
- “Hispanic Women’s Demonstration Resource Centers Act,” Ch. 378.
- Minors; volunteer work, certain, at recycling centers; permitted, C. 34:2-21.17b and 34:2-21.17c, Ch. 249.
- New Jersey Job Training Program, revised, C. 34:15B-27 et seq., amends C. 34:15B-13 et al., Ch. 71.
- New Jersey Occupational Information Coordinating Committee, established, C. 34:1A-76 and 34:1A-77, Ch. 457.
- “New Jersey Prevailing Wage Act”; enforcement powers of commissioner, expanded, amends C. 34:11-56.31, Ch. 451.
- ZIP codes, employees, residential and work; report by employer, required, C. 43:21-14a and 43:21-14b, Ch. 450.

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- Senior citizen, disabled protected tenancy; maximum income, increased, amends C. 2A:18-61.27 et al., Ch. 287.

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- Legislators, salaries increased, amends C. 52:10A-1, Ch. 448.

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- Local; State aid increased, amends N.J.S. 18A:74-3, Ch. 313.

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- Boat ownership, certificates, security interests, amends C. 12:7A-2 et al., repeals C. 12:7A-20, Ch. 138.
- Boat safety course; completion by operators under 16, required, C. 12:7-60 and 12:7-61, amends C. 2A:4A-23, Ch. 453.
- Boating laws, violation by juvenile, not considered delinquency, amends C. 2A:4A-23, Ch. 401.
- “Power Vessel Noise Control Act,” C. 12:7-23.1 et seq., Ch. 269.
- Registration fee exemptions; first aid, rescue, fire company equipment, certain, C. 12:7-34.6a, Ch. 9.

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- Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans, established, Ch. 323.
- Department of Veterans' Affairs and Defense, organization, C. 38A:3-1.1 et al., amends N.J.S. 38A:3-1 et al., repeals C. 52:27C-40 et seq., Ch. 444.
- Distinguished service medal; presentation to members of militia, federal military, authorized, amends N.J.S. 38A:15-2, Ch. 388.
- State militia; benefits altered, injuries in line of duty, C. 38A:13-1.1 and 38A:13-1.2, amends N.J.S. 38A:13-1 et al., Ch. 217.
- Vietnam Veterans' Memorial Committee; reporting date extended, amends P.L. 1985, Ch. 494, ss. 3 and 5; Ch. 146.

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- Park fee, certain; limited to actual cost of credit rating determination, amends C. 46:8C-2, Ch. 89.

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- Accident reports, police; seat belt usage, inclusion, amends R.S. 39:4-131, Ch. 26.
- Accidents; information to municipal court judge, victim, certain, required, C. 39:5-51 and 39:5-52, Ch. 307.
- Body repair facilities; statements for lienholders, lessors, C. 39:13-8, Ch. 280.
- Bridges; driving overweight vehicles over, penalty increased, amends R.S. 39:4-75, Ch. 315.
- Bus inspections; Department of Transportation to conduct; fees, certain, permitted, C. 48:4-2.1b, Ch. 373.
- Driver License Compact, membership of Pennsylvania requested, J.R. 7.
- Driver's license, failure to endorse, \$20 fine, C. 39:3-9a, amends R.S. 39:3-10, Ch. 20.
- "New Jersey Highway Traffic Safety Act of 1987," C. 27:5F-18 et seq., repeals C. 27:5F-1 et seq., Ch. 284.
- Pavement markings; obsolete specifications, eliminated, amends R.S. 39:4-198, Ch. 209.
- Registration plates, special; nonprofit organizations, issuance to members, permitted, C. 39:3-27.35 et seq., Ch. 374.
- Self-insured; supervision, transferred to Commissioner of Insurance, C. 39:6-50.1, amends C. 39:6-52 et al., Ch. 428.
- Storage fees; charged municipalities for abandoned vehicles, limited, C. 40:48-2.50 et seq., amends C. 40:48-2.49 et al., Ch. 127.

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Borough form of government, law revised, C. 40A:60-1 et seq., repeals R.S. 40:86-1 et al., Ch. 379.
Borough residency requirements; officers, certain, exempt, amends R.S. 40:87-15, Ch. 351.
Budgets; "cap" law, revised, amends C. 40A:4-45.2 et al., repeals C. 40A:4-45.5 et al., Ch. 74.
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City form of government, law revised, N.J.S. 40A:61-1 et seq., repeals R.S. 40:108-1(1) et al., Ch. 314.
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"Municipal Public Safety Act of 1987"; police services, State aid, Ch. 78.
Ordinances, violation; community service penalty, authorized, amends R.S. 40:49-5 and C. 40:69A-29, Ch. 411.
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Police training, in-service; funds from "Safe and Clean Neighborhoods Act," amends C. 52:27D-118.11 et al., Ch. 90.
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- Revolving relocation assistance fund, establishment permitted, C. 20:4-4.1a, amends N.J.S. 40A:4-39, Ch. 98.
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- Townships of Washington and Gloucester, boundary lines changed, Ch. 181.
- Urban aid, small municipalities eligible, amends C. 52:27D-178, Ch. 439.
- Urban renewal; condominium tax exemption, nonresident unit owners, certain, amends C. 40:55C-58.1, Ch. 443.
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- Nursing homes; increase licensed beds, certain, exemption from certificate of need requirement, C. 26:2H-7.2, Ch. 322.

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- Board of education employees, retired; assumption of continuing group health coverage, permitted, amends C. 18A:16-18 and 18A:16-19, Ch. 386.
- Essex County pension system, law revised, C. 43:10-18.18a and 43:10-18.16a, amends C. 43:10-18.1 et al., Ch. 429.
- Jersey City employees’ retirement system; loans, terms, C. 43:13-22.67 and 43:13-22.68, Ch. 171.
- Maximum allowance option, payable to beneficiary after death of member under PERS, TPAF, amends N.J.S. 18A:66-47 and C. 43:15A-50, Ch. 446.
- Noncontributory, final average salary, amends C. 43:8B-1, Ch. 117.
- Police and Firemen’s Retirement System; adoption by municipal ordinance, certain, permitted, Ch. 359.
- Police and Firemen’s Retirement System, Consolidated Police and Firemen’s Pension Fund; payment to surviving spouse, increased, amends R.S. 43:16-3 et al., Ch. 128.
- Police and Firemen’s Retirement System; membership transfer, certain, from county pension funds, Ch. 43.
- Public Employees’ Retirement System; death benefits for legislators, proof of insurability not required, C. 43:15A-141, Ch. 311.

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- Public Employees' Retirement System; death benefits, full, members aged 70 and older, amends C. 43:15A-41 et al., Ch. 1.
- State administered funds; Department of Insurance auditor examination requirement, eliminated, amends C. 43:16A-13, repeals N.J.S. 18A:66-28 and C. 43:15A-52, Ch. 330.
- State Police Retirement System; members, certain, reimbursement for Medicare payments, C. 53:5A-44.1, Ch. 447.
- Teachers' Pension and Annuity Fund; assumption of cost of living adjustments, health care benefits, C. 18A:66-18.1 and 43:3B-4a, amends N.J.S. 18A:66-18, Ch. 385.
- Teachers' Pension and Annuity Fund; purchase of service credit, certain, amends N.J.S. 18A:66-13, Ch. 247.
- Teachers' Pension and Annuity Fund; State health benefits, certain, provided, C. 52:14-17.32f, amends C. 52:14-17.32 and 52:14-17.38, repeals C. 52:14-17.32a, Ch. 384.
- Teachers' Pension and Annuity Fund; veteran member's retirement allowance, amends N.J.S. 18A:66-71, Ch. 97.
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- Family day care homes, considered home occupation, C. 40:55D-66.4 and 40:55D-66.5, Ch. 305.
- General development plans, municipal agreements, C. 40:55D-45.1 et seq., amends C. 40:55D-4 et al., Ch. 129.
- Pedestrian mall, special improvement district; public hearing, tenant notification eliminated, amends C. 40:56-71, Ch. 248.
- Pinelands Commission; housing units, low, moderate-income; prohibition on use as criterion, amends C. 13:18A-12 and 13:18A-15, Ch. 267.
- State Development and Redevelopment Plan, date for adoption extended, amends C. 52:18A-199, Ch. 308.

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- County park force; abolition, certain; permitted, C. 40:37-11.6, Ch. 271.
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- Nutley, township; appointment, certain, permanent, Ch. 300.
- Special law enforcement officers, Newark; reimbursement, certain, amends C. 40A:14-146.9 et al., Ch. 96.

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Barbers; regulation, certain, revised, C. 45:5B-35.1 et al., amends C. 45:5B-11 et al., Ch. 92.

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- County vocational; school boards, appointment by judges, eliminated, amends N.J.S. 18A:54-16, Ch. 163.
- Criminal history records checks, employees; law revised, C. 18A:6-7.1a and 18A:6-7.1b, amends C. 18A:6-7.4, Ch. 164.
- Drugs, alcohol, controlled dangerous substances; program on nature, effects of, provided, C. 18A:40A-1 et seq., repeals N.J.S. 18A:26-8 et al., Ch. 389.
- Election workers, appointment, amends N.J.S. 18A:14-6, Ch. 44.
- Elections, withdrawal of candidates, time, certain, amends N.J.S. 18A:14-12.1, Ch. 159.
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